

**BINDING PROPOSAL; EXECUTION COPY**

**ASSET PURCHASE AGREEMENT**

**By and Among**

**Municipality of Norristown, Montgomery County,**

**Norristown Municipal Waste Authority**

**As Seller**

**and**

**[\_\_\_\_\_]**

**As Buyer**

**Dated as of \_\_\_\_\_, 2020**

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## ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (this “Agreement”), dated as of \_\_\_\_\_, 2020 (the “Effective Date”), is made and entered into by and among Norristown Municipal Waste Authority, a body corporate and politic, organized under the Pennsylvania Municipal Authorities Act (the “Seller”), the Municipality of Norristown, Montgomery County, a body corporate and politic, organized under the Pennsylvania law and its Home Rule Charter (the “Municipality”), and [\_\_\_\_], (the “Buyer”), a Pennsylvania [corporation/municipal authority].

### WITNESSETH:

**WHEREAS**, the Seller, acting by and through its members (the “Seller Board”), owns that certain sanitary wastewater collection and treatment system (the “System”) that provides sanitary wastewater service to various customers in the Municipality of Norristown, Pennsylvania, and portions of West Norriton Township and Plymouth Township, Montgomery County, Pennsylvania (the “Service Area”); and

**WHEREAS**, [immediately after the Closing, the Municipality intends to terminate the Seller pursuant to Sections 5619 and 5622 of the Pennsylvania Municipal Authorities Act];

**WHEREAS**, Buyer is a [regulated public utility/municipal authority] that furnishes water and wastewater service to the public in various counties throughout Pennsylvania, including Montgomery County; and

**WHEREAS**, Buyer, in reliance upon the representations, warranties and covenants of the Seller and Municipality herein, desires to purchase and acquire from the Seller, and the Seller, in reliance upon the representations, warranties and covenants of Buyer herein, desires to sell, transfer and convey to Buyer all of the assets of the System (other than the Excluded Assets), and in connection therewith, Buyer has agreed to assume certain ongoing obligations and liabilities of the Seller related to such acquired assets, all on the terms and conditions set forth in this Agreement.

**NOW, THEREFORE**, in consideration of the foregoing and of the mutual representations, warranties, covenants, and agreements herein contained, the receipt and sufficiency of which are acknowledged, intending to be legally bound, the Parties agree as follows:

### ARTICLE I.

#### DEFINITIONS

In addition to the capitalized terms defined elsewhere in this Agreement, the following terms, as used in this Agreement (unless otherwise specified therein), have the meanings set forth in this Article I:

“**Acquired Assets**” has the meaning specified in Section 2.01.

“**Affiliate**” means, when used to indicate a relationship with a specified Person, means a Person that, directly or indirectly, through one or more intermediaries has a 10% or more voting

or economic interest in such specified Person or controls, is controlled by or is under common control with (which include, with respect to a managed fund or trust, the right to direct or cause the direction of the management and policies of such managed fund or trust as manager, advisor, supervisor, sponsor or trustee pursuant to relevant contractual arrangements) such specified Person, and a Person is deemed to be controlled by another Person if controlled in any manner whatsoever that results in control in fact by that other Person (or that other Person and any Person or Persons with whom that other Person is acting jointly or in concert), whether directly or indirectly and whether through share ownership, a trust, a contract or otherwise (and for purposes of this definition, a managed fund or trust is deemed to be an Affiliate of the Person managing, supervising, sponsoring or advising such fund or trust and a limited partner in a managed fund or trust is deemed to be an Affiliate of such fund or trust and of the Person managing, supervising, sponsoring or advising such fund or trust).

“**Agreement**” has the meaning ascribed thereto in the Preamble to this Agreement (and includes all Schedules and Exhibits referred to herein), as amended, modified and supplemented from time to time in accordance with the terms hereof.

“**Assigned Contracts**” has the meaning specified in Section 4.15.

“**Assignment and Assumption Agreement**” has the meaning specified in Section 13.02(c).

“**Assumed Liabilities**” has the meaning specified in Section 2.04(a).

“**Authorizations and Permits**” mean all licenses, permits, franchises, authorizations, certificates, registrations, consents, orders, adjudications, variances, waivers and approvals currently in effect issued or granted by Governmental Authorities, including without limitation, environmental permits, operating permits and approvals that are held by the Seller that primarily relate directly or indirectly to the operation of the System, including those described in Schedule 4.14.

“**Business Day**” means any day that is neither a Saturday, a Sunday nor a day observed as a holiday by either the Commonwealth of Pennsylvania or the United States government.

“**Buyer**” has the meaning specified in the Preamble of this Agreement.

“**Buyer Fundamental Representations**” has the meaning specified in Section 8.01.

“**Buyer Indemnified Persons**” has the meaning specified in Section 8.02.

“**CERCLA**” means the Comprehensive Environmental Response Compensation and Liability Act of 1980, 42 U.S.C. §9601 et seq., as amended.

“**Closing**” means the consummation of the sale and purchase of the Acquired Assets and assumption of the Assumed Liabilities, the release/waiver of liabilities and the other transactions contemplated by this Agreement, all in accordance with the terms and conditions of this Agreement and as provided for in Article XIII.

“**Closing Date**” has the meaning specified in Section 13.01.

“**Closing Effective Time**” has the meaning specified in Section 13.01.

“**Code**” means the Internal Revenue Code of 1986, as amended.

“**Collective Bargaining Agreement**” means the existing collective bargaining agreement between the Seller and the Union dated November 15, 2017 for the period beginning January 1, 2018 and ending December 31, 2020, as may be amended from time to time.

“**Confidential Information**” means any information about Buyer, Municipality, Seller or the System related to the transactions contemplated by this Agreement; provided, however, that such term does not include information which the receiving Party can demonstrate (a) is generally available to or known by the public other than as a result of improper disclosure by the receiving Party, (b) is obtained by the receiving Party from a source other than the disclosing Party, provided that such source was not bound by a duty of confidentiality to the disclosing Party with respect to such information, or (c) is legally in the public domain.

“**Customer Sewer Laterals**” has the meaning specified in Section 2.02(b).

“**Easements**” means all easements, rights of way, licenses, use agreements, occupancy agreements, leases and other agreements and appurtenances for and over the real property of third parties.

“**EDU**” means the equivalent dwelling unit that also equates to 275 GPD.

“**Effective Date**” has the meaning specified in the Preamble.

“**Environment**” means soil, surface waters, ground waters, land, stream sediments, flora, fauna, surface or subsurface strata and ambient air.

“**Environmental Claims**” means all notices of investigations, warnings, notice letters, notices of violations, Liens, orders, claims, demands, suits or administrative or judicial actions for any injunctive relief, fines, penalties, third party claims, or other claims asserting violations of Environmental Requirements or responsibility for Environmental Liabilities.

“**Environmental Conditions**” means the Release of Hazardous Materials or the presence of Hazardous Materials on, in, under or within any property (including the presence in the Environment), other than the presence of Hazardous Materials in locations and at concentrations that are naturally occurring.

“**Environmental Liabilities**” means any legal obligation or liability arising under Environmental Requirements or related to or arising out of any Environmental Condition, including those consisting of or relating to any (a) duty imposed by, breach of or noncompliance with any Environmental Requirements; (b) environmental, health or safety matters or conditions (including on-site or off-site contamination, occupational safety and health and regulation of Hazardous Materials); (c) Remedial Action undertaken by any Person; (d) bodily injury (including illness, disability and death, and regardless of when any such bodily injury occurred, was incurred

or manifested itself), property damage (including trespass, nuisance, wrongful eviction and deprivation of the use of real or personal property), or other losses or damages incurred by any other Person (including any employee or former employee of such Person); (e) any injury to, destruction of, or loss of natural resources, or costs of any natural resource damage assessments; (f) exposure of any Person to any Hazardous Materials; and (g) the presence or Release of any Hazardous Materials.

**“Environmental Requirements”** mean all present Laws (including common law), regulations, legally binding or otherwise enforceable requirements and Authorizations and Permits relating to human health, pollution, or protection of the Environment (including ambient air, surface water, ground water, land surface or surface strata), including (i) those relating to emissions, discharges, Releases, or threatened Releases of Hazardous Materials, and (ii) those relating to the identification, generation, manufacture, processing, distribution, use, treatment, storage, disposal, release, recovery, transport or other handling of Hazardous Materials. Without limiting the foregoing, the term **“Environmental Requirements”** includes (1) CERCLA; the Superfund Amendments and Reauthorization Act, Public Law 99-499, 100 Stat. 1613; the Emergency Planning and Community Right to Know Act, 42 U.S.C. Sections 11001-11050; the Resource Conservation and Recovery Act, 42 U.S.C. Sections 6901-6992k (**“RCRA”**); the Safe Drinking Water Act, 42 U.S.C. Sections 300f to 300j-26; the Toxic Substances Control Act, 15 U.S.C. Sections 2601-2692; the Hazardous Materials Transportation Act, 49 U.S.C. Sections 5101-5127; the Federal Water Pollution Control Act, 33 U.S.C. Sections 1251-1387; the Oil Pollution Act of 1990, 33 U.S.C. Sections 2701--2761; the Clean Air Act, 42 U.S.C. Sections 7401-7671q; the Atomic Energy Act of 1954, as amended, 42 U.S.C. Sections 2011 et seq.; the Low Level Radioactive Waste Policy Act, as amended, 42 U.S.C. Section 2021b et seq.; the Occupational Safety and Health Act, 29 U.S.C. Sections 651-678, and the regulations promulgated pursuant to the above-listed federal statutes, and (2) counterpart Laws and regulations promulgated or issued by any state or local Governmental Authority, specifically including the Pennsylvania Storage Tank and Spill Prevention Act of 1989 (35 Pa. C.S.A. § 6021.101 *et. seq.*).

**“EPA”** means the United States Environmental Protection Agency, or a successor Governmental Authority with substantially similar power and authority thereto.

**“Equipment and Machinery”** means (i) all the equipment, tangible personal property, machinery, office furniture and equipment, fixtures, tooling, spare maintenance or replacement parts, environmental testing equipment, and vehicles owned or leased by the Seller (including all leases of such property), which are primarily used in the operation of the System, (ii) any rights of the Seller to warranties applicable to the foregoing (to the extent assignable), and licenses received from manufacturers and Seller of any such item, and (iii) any related claims, credits, and rights of recovery with respect thereto.

**“Excluded Assets”** has the meaning specified in Section 2.02.

**“Excluded Liability”** or **“Excluded Liabilities”** means all liabilities other than Assumed Liabilities.

**“Files and Records”** means all files and records of the Seller primarily relating to the System, whether in hard copy or magnetic or other format including customer and supplier records,

customer lists (both current and prospective), personnel and human resources records, records of sales calls, manuals, books, files, records, engineering data, procedures, systems, instructions, drawings, blueprints, plans, designs, specifications, equipment lists, parts lists, equipment maintenance records, equipment warranty information, plant plans, specifications and drawings, sales and advertising material, computer software, and records relating to the System, and whether stored on-site or off-site.

**“Final Order”** means a Governmental Approval by a Governmental Authority as to which (a) no request for stay of the action is pending, no such stay is in effect and if any time period is permitted by statute or regulation for filing any request for such stay, such time period has passed, (b) no petition for rehearing, reconsideration or clarification of the action is pending and the time for filing any such petition has passed, (c) such Governmental Authority does not have action under consideration on its own motion and (d) no appeal to a court or administrative tribunal or a request for stay by a court or administrative tribunal of the Government Authority’s action is pending or in effect and the deadline for filing any such appeal or request for stay has passed.

**“Freeze Period”** has the meaning specified in Section 7.04.

**“Governmental Approval”** means any consent, approval, authorization, notice, filing, registration, submission, reporting, order, adjudication or similar item of, to or with any Governmental Authority.

**“Governmental Authority”** or **“Governmental Authorities”** means any court, department, commission, board, bureau, municipality, municipal authority (established pursuant to the Pennsylvania Municipal Authorities Act of the Commonwealth of Pennsylvania), agency or instrumentality of the United States, any state, county, city or political subdivision thereof, or any foreign governmental body, including without limitation, [the PaPUC], the EPA, PaDEP, Seller Board and the Municipal Council.

**“Hazardous Materials”** means any solid, liquid, gas, odor, heat, sound, vibration, radiation or other substance or emission which is a contaminant, pollutant, dangerous substance, toxic substance, hazardous waste, residual waste, solid waste, hazardous material or hazardous substance which is or becomes regulated by applicable Environmental Requirements or which is classified as hazardous or toxic under applicable Environmental Requirements (including gasoline, diesel fuel or other petroleum hydrocarbons, polychlorinated biphenyls, asbestos and urea formaldehyde foam insulation).

**“Indemnified Party”** means any Buyer Indemnified Persons or Seller Indemnified Persons, as applicable, entitled to indemnification pursuant to Article VIII.

**“Indemnifying Party”** means a Party which is obligated to indemnify the Buyer Indemnified Persons or the Seller Indemnified Persons, as applicable, pursuant to Article VIII.

**“Knowledge”** when used to qualify or limit a Party’s representations or warranties means the knowledge of such Party’s Representatives who are engaged in a material way in the performing the functions of such Party with respect to which the representations are made, after conducting reasonably investigation and inquiry with respect to the subject matter of the representation.

“**Law**” means any applicable law, statute, regulation, ordinance, rule, order, judicial, administrative and regulatory decree, judgment, adjudication, consent decree, settlement agreement or governmental requirement enacted, promulgated, entered into, agreed or imposed by any Governmental Authority, as may be in effect at the relevant time or times in the context in which the term is used.

“**Liability Cap**” has the meaning specified in Section 8.05(c).

“**Lien**” means any lien in a fixed and ascertainable monetary sum, or any pledge, mortgage, deed of trust or security interest securing a fixed and ascertainable monetary sum, or any charge or claim in a fixed and ascertainable monetary sum. In addition, in connection with Real Property, any item otherwise falling within the definition of a “Lien” must be filed of record by the responsible Party in accordance with the terms of this Agreement.

“**Loss**” means any and all losses, liabilities, obligations, damages, penalties, interest, Taxes, claims, actions, demands, causes of action, judgments, reasonable attorneys’, consultants’ and other professional fees, and all other reasonable costs and expenses sustained or incurred in investigating, preparing or defending or otherwise incident to any such claim, action, demand, cause of action or judgment or the enforcement of a Party’s rights under Article VIII; *provided, however,* that “**Losses**” do not include punitive, incidental, consequential, special or indirect damages, including loss of future revenue or income, loss of business reputation or opportunity relating to the breach or alleged breach of this Agreement, or diminution of value or any damages based on any type of multiple, except in the case of fraud or to the extent actually awarded to a Governmental Authority or other third party in respect of a Third Party Claim.

“**Material Adverse Effect,**” means a material adverse effect on the business, financial condition or results of operations of the System; provided, however, that no effect arising out of or in connection with or resulting from any of the following will be deemed, either alone or in combination, to constitute or contribute to a Material Adverse Effect: (i) general economic conditions or changes therein; (ii) financial, banking, currency or capital markets fluctuations or conditions (either in the United States or any international market and including changes in interest rates); (iii) conditions affecting the real estate, financial services, construction, water utility or sewer utility industries generally; (iv) any existing event, circumstance, condition or occurrence of which the Buyer has actual knowledge as of the Effective Date; (v) any action, omission, change, effect, circumstance or condition contemplated by this Agreement or attributable to the execution, performance or announcement of this Agreement or the transactions contemplated by this Agreement; and (vi) negligence, intentional misconduct or bad faith of the Buyer or its Representatives.

“**Missing Easements**” means, as of any particular date, each material Easement that is for or used in connection with the operation of the System or to provide continuous and unimpeded rights of way for the Acquired Assets (including access thereto) that either (a) has not been obtained by Municipality and is for or used in connection with the operation of the System or (b) if such Easement has been obtained by Municipality, such Easement is unrecorded or such Easement is not sufficient to operate the System as currently conducted.

“**Municipal Council**” means the Municipal Council of the Municipality of Norristown, Montgomery County.

“**Non-Union Personnel**” means Personnel who are not members of the Union.

[“**Outside Date**” means 365 days after the date the application to the PaPUC is accepted as complete by the PaPUC and the statutory 6-month consideration period is initiated.]

“**Outstanding Indebtedness**” means the following outstanding indebtedness of the Seller: [\$17,003,662, including Sewer Revenue Notes 2013A, Sewer Revenue Notes 2013B and Sewer Revenue Notes 2013C].

“**PaDEP**” means the Pennsylvania Department of Environmental Protection, or any successor Governmental Authority with substantially similar powers thereto.

[“**PaPUC**” means the Pennsylvania Public Utility Commission, or any successor Governmental Authority with substantially similar powers thereto.]

“**Party**” means Buyer, the Municipality or the Seller and the term “Parties” means collectively Buyer, the Municipality and the Seller.

“**PCB Equipment**” means PCB equipment as defined in 40 C.F.R. Part 761.

“**Pending Development Plan**” means any project for the development of real property which is the subject of a subdivision or land development plan that has been submitted to Municipality for approval, or for which Municipality already has granted approval but which has yet to be constructed, pursuant to the Pennsylvania Municipal Planning Code as of the Effective Date ( and as updated before the Closing Date).

“**Permitted Liens**” means (a) Liens for Taxes not yet due and payable or being contested in good faith by appropriate procedures; (b) easements, rights of way, zoning ordinances and other similar encumbrances affecting Real Property and Easements as disclosed on Schedule 4.09; (c) other than with respect to Real Property owned by Seller, Liens arising under original purchase price conditional sales contracts and equipment leases with third parties entered into in the ordinary course of business; (d) other imperfections of title or Liens, if any, that have not had, and would not have, a Material Adverse Effect; and (e) any encumbrances identified in the Title Commitment not identified in the Objection Notice in accordance with the procedures and deadlines prescribed in Section 6.02(a).

“**Person**” means any individual (including, the heirs, beneficiaries, executors, legal representatives or administrators thereof), corporation, partnership, joint venture, trust, limited liability company, limited partnership, joint stock company, unincorporated association or other entity or a Governmental Authority.

“**Personnel**” means the employees of the Seller and includes Union Personnel and Non-Union Personnel.

“**Planned Project**” has the meaning specified in Section 7.09(c).

**“Purchase Price”** has the meaning specified in Section 3.01.

**“Real Property”** has the meaning specified in Section 4.09.

**“Regulated Asbestos Containing Material”** means regulated asbestos containing material as defined by 40 C.F.R. § 61.141.

**“Release”** means any actual or threatened spilling, leaking, pumping, pouring, injecting, emptying, discharging, emitting, escaping, leaching, dumping, disposal, or release or migration of Hazardous Materials into the Environment, including the abandonment or discarding of barrels, containers and other receptacles containing any Hazardous Materials.

**“Remedial Action”** means any and all actions to (a) investigate, clean up, remediate, remove, treat, contain or in any other way address any Hazardous Materials in the Environment, (b) prevent the Release or threat of Release or minimize the further Release of any Hazardous Materials so it does not migrate or endanger public health or welfare or the indoor or outdoor Environment, and (c) perform pre-remedial studies and investigations and post-remedial monitoring, maintenance and care. The term **“Remedial Action”** includes any action which constitutes (i) a “removal”, “remedial action” or “response” as defined by Section 101 of CERCLA, 42 U.S.C. §§ 9601(23), (24), and (25); (ii) a “corrective action” as defined in RCRA, 42 U.S.C. § 6901 et seq.; or (iii) a “response” or “interim response” as defined in the Pennsylvania Hazardous Sites Cleanup Act, 35 P.S. §6020.103.

**“Representative”** means, with respect to any Party, any director (including, in the case of Seller, any member of the Seller Board and Municipal Council), officer, employee, official, lender mortgagee, financier, provider of any financial instrument (or any agent or trustee acting on their behalf), partner, member, owner, agent, lawyer, accountant, auditor, professional advisor, consultant, engineer, contractor, other Person for whom such Person is at law responsible or other representative of such Person and any professional advisor, consultant or engineer designated by such Person as its “Representative.”

**“Schedules”** means the disclosure schedules delivered by Seller and Buyer, respectively, concurrently with the execution and delivery of this Agreement, and as may be supplemented and updated pursuant to Sections 9.03 and 10.04. Any disclosure set forth on any particular Schedule are deemed disclosure in reference to all Schedules comprising the Schedules to which such disclosure is reasonably apparent.

**“Seller”** has the meaning specified in the Preamble of this Agreement.

**“Seller Board”** has the meaning set forth in the recitals to this Agreement.

**“Seller Fundamental Representations”** has the meaning specified in Section 8.01.

**“Seller Indemnified Persons”** has the meaning specified in Section 8.03.

**“Seller’s Benefit Obligations”** means all material obligations, arrangements, or practices, whether or not legally enforceable, to provide benefits, other than salary or wages to present or former directors, employees or agents, (other than obligations, arrangements and practices that are

Seller's Plans), that are owed, adopted or followed by the Seller. Seller's Benefit Obligations also include consulting agreements under which the compensation paid does not depend upon the amount of service rendered, sabbatical policies, severance payment policies and fringe benefits within the meaning of Code §132.

**"Seller's Plans"** means each voluntary employees' beneficiary association under Section 501(c)(9) of the Code whose members include any Personnel and any employee benefit plans or any other retirement, profit sharing, stock option, stock bonus, deferred compensation (including any "nonqualified deferred compensation plan" within the meaning of Section 409A of the Code), severance, sick leave or other material plan or arrangement providing benefits to current or former Personnel, in each case, if either currently in effect or terminated within the last six (6) years, to which the Seller is a plan sponsor or to which the Seller otherwise contributes or has contributed within the last six (6) years, or in which the Seller otherwise participates or has participated within the last six (6) years.

**"Seller NPDES Permits"** means the following National Pollutant Discharge Elimination System Permits [and Water Quality Management Permits]: (i) Permit No. PA0027421, (ii) and (ii) \_\_\_\_\_ issued by PaDEP to Seller with respect to the System, including any revisions or amendments thereto.

**"Service Area"** has the meaning set forth in the recitals to this Agreement.

**"Supplies"** means all lubricants, spare parts, fuel, chemicals, raw materials, and other supplies and inventory, and all rights to warranties received from suppliers with respect to the foregoing, and related claims, credits, and rights of recovery with respect thereto.

**"System"** has the meaning specified in the recitals to this Agreement and includes the Acquired Assets and excludes the Excluded Assets.

**"System Improvements"** has the meaning specified in Section 7.10(a).

**"Taxes"** means any federal, state, local or foreign income, gross receipts, license, payroll, employment, excise, severance, stamp, occupation, premium, windfall profits, environmental, customs duties, permit fees, capital stock, franchise, profits, withholding, social security, unemployment, disability, real property, personal property, parking, sales, use, transfer, registration, value added, alternative or add-on minimum, estimated or other tax, levy, impost, stamp tax, duty, fee, withholding or similar imposition of any kind payable, levied, collected, withheld or assessed at any time, including any interest, penalty or addition thereto, whether disputed or not.

**"Threshold Amount"** has the meaning specified in Section 8.05(a).

**"Title Commitment"** has the meaning specified in Section 6.01.

**"Title Company"** has the meaning specified in Section 6.01.

**"Title Policy"** has the meaning specified in Section 2.03.

“**Transferred Personnel**” has the meaning specified in Section 7.03(a).

“**UCC Search**” has the meaning specified in Section 6.04.

“**Union**” means the Teamsters Local Union No. 463.

“**Union Personnel**” means Personnel who are members of the Union.

“**Unscheduled Real Property**” has the meaning specified in Section 6.06.

“**Utility Valuation Expert**” means an expert that has applied and has been approved by the PaPUC and is currently, at the time of this Agreement, on the list of approved appraisers maintained by the PaPUC.

## **ARTICLE II.**

### **TERMS OF PURCHASE AND ASSUMPTION OF LIABILITIES**

#### **Section 2.01. Purchase and Sale of Acquired Assets**

Subject to the terms and conditions set forth in this Agreement, at Closing, Buyer shall purchase from the Seller and the Seller shall sell, transfer, assign and deliver to Buyer, free and clear of all Liens except for Permitted Liens, all of Seller’s right, title and interest in and to all assets, facilities, business, goodwill, properties and rights of the Seller of every kind and description, whether tangible or intangible, real, personal or mixed, wherever situated, in each case used in, held for use in, or acquired or developed for use in, the System, or otherwise related to, or arising out of the operation or conduct of the System (whether or not any such assets have any value for accounting purposes or are carried or reflected on the books or financial records of the Seller), but in all cases other than the Excluded Assets (the foregoing collectively referred to as the “Acquired Assets”), including:

(a) all real property and appurtenant interests necessary for the operation of the System, including without limitation (i) good and marketable fees simple title to the Real Property described and identified on Schedule 4.09 hereof, and (ii) all Easements currently used or necessary to operate the System, including without limitation those identified on Schedule 4.09;

(b) all sanitary wastewater related treatment and conveyance facilities, including but not limited to the Seller’s (i) assets set forth on Schedule 2.01(b), (ii) sewage treatment plant located in the Municipality, and (iii) all collection system mains (whether gravity or force mains), laterals (from the collection system main to the edge-of-road or curb-line when the main is located within a public right-of-way or the edge of an easement where the main is located within private property), generators, manholes, and other related appurtenances and any billing and collections related assets necessary to own and operate the System;

(c) all contracts, licenses and leases identified on Schedule 4.15 to which the Seller is a party, including without limitation, all construction contracts, surety bonds, operation and maintenance agreements, management agreements, reserved capacity agreements, architect

agreements and consultant agreements, relating to vehicles and other items of personal property (the “Assigned Contracts”);

- (d) all Supplies;
- (e) all personal property and fixed assets, including all Equipment and Machinery, auxiliary equipment and plant equipment;
- (f) all prepaid expenses and security deposits;
- (g) all Files and Records;
- (h) all Authorizations and Permits of or held by the Seller (to the extent transferrable to Buyer under applicable Law), including all Authorizations and Permits which are environmental permits, the Seller NPDES Permits, other operating permits and those items listed or described on Schedule 4.14 hereto; and
- (i) all goodwill of the System.

SELLER MAKES NO EXPRESS OR IMPLIED REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER REGARDING THE VALUE OF ANY OF THE ACQUIRED ASSETS OR THE SYSTEM, OR THE FUTURE PROFITABILITY OR FUTURE EARNINGS PERFORMANCE OF THE ACQUIRED ASSETS OR THE SYSTEM OR ANY FUTURE RATEMAKING THAT MAY BE ALLOWED BY THE PAPUC FOR ANY OF THE ACQUIRED ASSETS.

Section 2.02. **Excluded Assets**

Notwithstanding anything in the Agreement to the contrary, the Acquired Assets do not include the following (the “Excluded Assets”):

- (a) all contracts, licenses and leases that are not Assigned Contracts;
- (b) any and all connecting facilities originating from Seller’s terminus point of collection facilities at the edge-of-road or curb-line or edge of an easement to and throughout the customer’s property (the “Customer Sewer Laterals”), including any grinder pumps;
- (c) any and all piping and fixtures internal to each individual customer structure (whether residential, commercial, industrial or other customer classes/types);
- (d) the seals, organizational documents, minute books, Tax returns, books of account or other records having to do with the organization of Seller or the Municipality and all employee-related or employee benefit-related files or records;
- (e) cash (including any cash resulting from the payment to the Seller for EDUs received on or before the Closing Date) and cash equivalents, including accounts receivable and existing financial security guaranteeing installation of public improvements (including sewer facilities);

(f) all insurance policies of Seller and all rights to applicable claims and proceeds thereunder;

(g) all rights to any action, suit or claim of any nature available to or being pursued by Seller, whether arising by way of counterclaim or otherwise;

(h) all assets, properties and rights used by Seller other than those which primarily relate to the operations of the System;

(i) the assets, properties and rights specifically set forth on Schedule 2.02(i);

(j) all municipal separate storm sewer system (“MS4”) assets and stormwater assets of the Municipality (and any related NPDES permits); and

(k) the rights which accrue or will accrue to Seller under this Agreement and any related agreement, exhibit or schedule.

### Section 2.03. **Sale Free of Liens**

After Buyer fulfills its obligations pursuant to Section 3.01(a), on the Closing Date, the Acquired Assets will be free and clear of all Liens other than Permitted Liens. The Seller shall convey such Acquired Assets by appropriate special warranty or other deed (subject to Section 6.02(c)), bills of sale, endorsements, assignments and other instruments of transfer or conveyance described in the Agreement, or by transfer documents satisfactory in form and substance reasonably acceptable to Buyer and Seller and their counsel in their reasonable discretion. At Closing, Buyer shall cause the Title Company to insure the Real Property, at the Title Company’s filed rates, as a good and marketable title, free and clear of all Liens and exceptions to coverage, except for the Permitted Liens, pursuant to an owner’s policy of title insurance on the American Land Title Association’s (“ALTA”) Owner’s Form 2006, subject to the terms of Section 6.02 below (the “Title Policy”).

### Section 2.04. **Assumption of Liabilities**

(a) On the terms and subject to the conditions set forth in this Agreement and excluding the Excluded Liabilities, Buyer shall assume and agrees to pay, perform and discharge when due any and all liabilities and obligations of the Seller (1) arising under the Seller NPDES Permits (whether arising from, related to, or based on events or circumstances occurring on or after the Closing Date), (2) arising under the Collective Bargaining Agreement or an amended and restated collective bargaining agreement (whether arising from, related to or based on events or circumstances occurring on or after the Closing Date), and (3) arising out of or relating to the System or the Acquired Assets on or after the Closing, including, without limitation, the following:

(i) All liabilities and obligations under the Assigned Contracts, including that certain corrective action and connection management plan entered into with the PaDEP in November 2010, and Authorizations and Permits resulting from events that occur or conditions that arise on or after the Closing;

(ii) any litigation initiated against Seller or the Municipality related to the System or the Acquired Assets resulting from events that occur on or after the Closing;

(iii) all liabilities and obligations for Taxes relating to the System, its operation, the Acquired Assets and the Assumed Liabilities attributable to the period beginning on the Closing Date; and

(iv) all other liabilities and obligations arising out of or relating to Buyer's ownership or operation of the System and the Acquired Assets on or after the Closing (all of the aforementioned liabilities in this Section 2.04(a) are referred to as the "Assumed Liabilities").

(b) After the Closing, Buyer shall indemnify Seller and the Municipality against its obligations under the Assumed Liabilities in accordance with Section 8.03.

(c) Buyer shall not assume or be liable to pay any liabilities or obligations relating to the Excluded Liabilities or any other liabilities or obligations that are not Assumed Liabilities.

**Section 2.05. Further Assurances** At any time and from time to time after the Closing Date, the Municipality shall, upon the request of Buyer, and Buyer shall, upon the request of the Municipality, at the cost of requesting Party, promptly execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such other instruments of conveyance and transfer and other documents, and perform or cause to be performed such further acts, as may be reasonably required to evidence or effectuate, or more fully evidence or effectuate, (a) the sale, conveyance, transfer, assignment and delivery hereunder of the Acquired Assets to Buyer, (b) the assumption by Buyer of any of the Assumed Liabilities, (c) performance by the Parties of any of their other respective obligations under this Agreement, (d) the vesting in Buyer of all right, title and interest in the Acquired Assets and the System as provided herein, and (e) any other matters reasonably requested by a Party to carry out the provisions, purposes and intent of this Agreement.

**Section 2.06. Certain Transfers; Assignment of Contracts**

(a) Notwithstanding anything to the contrary in this Agreement, and subject to the provisions of this Section 2.06(a) and Section 2.06(b), to the extent that the sale, transfer, assignment, conveyance and delivery, or attempted sale, transfer, assignment, conveyance and delivery, to Buyer of any Assigned Contract or other Acquired Asset would result in a violation of applicable Law, or would require the consent, authorization, approval or waiver of any Person (other than the Parties hereto), including any Governmental Authority, and such consent, authorization, approval or waiver has not been obtained before the Closing, this Agreement shall not constitute a sale, transfer, assignment, conveyance and delivery, or an attempted sale, transfer, assignment, conveyance and delivery, thereof (any such Acquired Asset, a "Nonassignable Asset"). Following the Closing, the Seller (if not yet terminated), the Municipality and the Buyer shall use commercially reasonable efforts (at the cost and expense of the Party that is responsible for compliance with such Law or obtaining such consent, authorization, approval or waiver), and shall cooperate with each other, to obtain any such required consent, authorization, approval or waiver, or any release, substitution, novation or amendment required to sell, transfer, assign, convey and deliver any such Nonassignable Asset to Buyer; *provided, however*, that in no event will Buyer be required to pay any consideration therefor. Once such consent, authorization, approval, waiver, release, substitution or amendment is obtained, the Seller (if not yet terminated) or the Municipality shall sell, transfer, assign, convey and deliver to Buyer the relevant Acquired

Asset to which such consent, authorization, approval, waiver, release, substitution or amendment relates for no additional consideration. Any applicable sales, transfer and other similar Taxes in connection with such sale, transfer, assignment, conveyance and delivery shall be paid one-half by Buyer and one-half by the Municipality.

(b) Until such time as a Nonassignable Asset is transferred to Buyer pursuant to this Article II, Buyer, the Municipality and the Seller (if not yet terminated) shall cooperate in any commercially reasonable and economically feasible arrangements (such as subleasing, sublicensing or subcontracting) to provide to the Parties the economic and, to the extent permitted under applicable Law, operational equivalent of the transfer of such Nonassignable Asset to Buyer at the Closing and the performance by Buyer of its obligations with respect thereto, and so long as the Municipality and the Seller (if not yet terminated) transfers and turns over all economic and beneficial rights with respect to each such Nonassignable Asset, Buyer shall, to the extent permitted under Law and the terms of any applicable contract that constitutes a Nonassignable Asset, as agent or subcontractor for the Seller or the Municipality, pay, perform and discharge the liabilities and obligations of the Seller or the Municipality thereunder from and after the Closing Date, but only to the extent that such liabilities and obligations would constitute Assumed Liabilities if the applicable consent or approval had been obtained on or before the Closing Date and such Nonassignable Asset had been assigned to Buyer at Closing. To the extent permitted under Law, the Municipality and the Seller (if not yet terminated) shall hold in trust for and pay to Buyer promptly upon receipt thereof, such Nonassignable Asset and all income, proceeds and other monies received by the Municipality and the Seller (if not yet terminated) with respect to such Nonassignable Asset in connection with the arrangements under this Article II.

(c) If, following the Effective Date and before the Closing, Buyer identifies any contract to which the Seller or the Municipality is a party which is not identified on Schedule 4.15 as an Assigned Contract as of the Effective Date, and Buyer reasonably determines such contract is necessary to the operation of the System, Buyer shall give notice of such determination to the Seller or the Municipality and the Seller or the Municipality shall, promptly following receipt of such notice, deliver to Buyer an updated Schedule 4.15 identifying such contract, and such contract will thereafter constitute and be deemed an Assigned Contract for all purposes hereunder.

(d) If, during the twelve (12) month period following the Closing Date, Buyer identifies any contract to which the Seller (if not yet terminated) or the Municipality was a party as of the Closing and which (i) was not set forth on or properly identified on Schedule 4.15 (as may be updated pursuant to (c)) and (ii) Buyer reasonably believes is necessary to the operation of the System, the Seller or the Municipality shall, promptly following Buyer's written request therefor, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such other instruments of conveyance and transfer and other documents, and perform or cause to be performed such further acts, as may be reasonably required to evidence or effectuate, or more fully evidence or effectuate the assignment of such contract to Buyer for no additional consideration, and upon such assignment, such contract will be deemed an Assigned Contract for all purposes hereunder.

**ARTICLE III.**

**PURCHASE PRICE AND ADDITIONAL CONSIDERATION**

**Section 3.01. Purchase Price and Additional Consideration**

The purchase price for the Acquired Assets is \_\_\_\_\_ Million Dollars (\$\_\_\_\_,000,000) (the "Purchase Price") which Buyer shall pay as follows at Closing:

(a) Buyer shall provide for the payment in full the total amount of Outstanding Indebtedness on account of the Purchase Price; and

(b) Subject to any adjustment in Purchase Price resulting from the proration procedures set forth in Section 3.01(c), Buyer shall pay to the Seller at Closing by wire transfer of immediately available funds the balance of the Purchase Price (remaining after the debt repayment pursuant to Section 3.01(a)) to one or more accounts that Seller designates and provides to Buyer at least three (3) Business Days before the Closing Date; and

(c) Final Billing: The Buyer is entitled to all customer billings with respect to sanitary wastewater customers services for the period on or after the Closing Effective Time, and the Seller is entitled to all such billings before the Closing Effective Time. The Parties shall cooperate to calculate an agreed upon proration of billing amounts and to credit the Purchase Price for the appropriate Party on the Closing Date.

**Section 3.02. Fair Consideration**

The Parties acknowledge and agree that the consideration provided for in this Article III represents fair consideration and reasonable equivalent value for the sale and transfer of the Acquired Assets and the transactions, covenants and agreements set forth in this Agreement, which consideration was agreed upon as the result of arm's-length good faith negotiations between the Parties and their respective Representatives.

**Section 3.03. Transfer Taxes**

Any and all deed stamps or transfer Taxes which may be due the Commonwealth of Pennsylvania or any political subdivision in connection with the sale, transfer, assignment, conveyance and delivery hereunder of the Acquired Assets to Buyer (collectively, "Transfer Taxes"), will be paid by Buyer. The terms hereof shall survive Closing.

**ARTICLE IV.**

**REPRESENTATIONS AND WARRANTIES OF THE SELLER**

The Seller and the Municipality make only the specified representations and warranties as to each of them which are set forth in this Article IV.

As a material inducement to Buyer to enter into this Agreement and to consummate the transactions contemplated by this Agreement, the Seller and the Municipality jointly and severally

represent and warrant, as of the Effective Date (except to the extent any of the following representations and warranties specifically apply to or relate to another date, in which event such representations and warranties shall be true and correct as of such other date), as follows:

**Section 4.01. Organization**

The Seller is a body corporate and politic, duly organized and existing under the Pennsylvania Municipal Authorities Act. The Municipality is a body corporate and politic, duly organized and existing under Pennsylvania law and its Home Rule Charter.

**Section 4.02. Power and Authority**

The Seller and the Municipality (i) duly adopted the Authorizing Ordinance or resolutions authorizing the transactions contemplated herein, which remains in full force and effect, (ii) duly authorized and approved the execution and delivery of this Agreement and (iii) duly authorized and approved the performance by the Seller and the Municipality of their respective obligations contained in this Agreement. The Seller and the Municipality have all requisite power and authority to own, lease and operate the Acquired Assets and the System and have the power and authority to enter into this Agreement and to do all acts and things and execute and deliver all other documents as are required hereunder to be done, observed or performed by it in accordance with the terms hereof.

**Section 4.03. Enforceability**

This Agreement has been duly authorized, executed and delivered by the Seller and the Municipality and constitutes a valid and legally binding obligation of the Seller and the Municipality, enforceable against the Seller and the Municipality in accordance with the terms hereof, subject only to applicable bankruptcy, insolvency and similar laws affecting the enforceability of the rights of creditors generally and to general principles of equity.

**Section 4.04. No Conflict or Violation**

The execution and delivery of this Agreement by the Seller and the Municipality, the consummation of the transactions contemplated by this Agreement and the performance by the Seller and the Municipality of the terms, conditions and provisions hereof has not and will not contravene or violate or result in a breach of (with or without the giving of notice or lapse of time, or both) or acceleration of any material obligations of the Seller and the Municipality under (i) any applicable Law or (ii) any agreement, instrument or document to which the Seller or the Municipality is a party or by which it is bound.

**Section 4.05. Consents and Approvals**

Schedule 4.05 sets forth a list of each consent, waiver, authorization or approval of any Governmental Authority, or of any other Person, and each declaration to or filing or registration with any Governmental Authority required in connection with the execution and delivery of this Agreement by the Seller and the Municipality or the performance by the Seller and the Municipality of its obligations hereunder.

#### Section 4.06. **Undisclosed Liabilities**

Except as set forth in Schedule 4.06, there are no liabilities or obligations of Seller or the Municipality, either accrued, absolute, contingent or otherwise, relating to the Assets that would be required to be set forth on a balance sheet prepared under generally accepted accounting principles applicable to municipalities, other than liabilities incurred in the ordinary course that could not reasonably be expected to have a Material Adverse Effect. All of the Outstanding Indebtedness can be repaid or defeased by Seller and/or the Municipality and any security interests granted by Seller and/or the Municipality to secure its obligations pursuant thereto can be extinguished or terminated at or before the Closing pursuant to the contractual terms applicable to such Outstanding Indebtedness.

#### Section 4.07. **Absence of Certain Changes or Events**

Except as set forth on Schedule 4.07, since December 31, 2016, there has not been any transaction or occurrence that has resulted or is reasonably likely to result in a Material Adverse Effect and the Seller has operated and maintained the System since December 31, 2016 in the ordinary course.

#### Section 4.08. **Tax Matters**

Except as set forth in Schedule 4.08 or as would not have a Material Adverse Effect, that (i) the Seller has timely paid all Taxes that may have been or may be due and payable by the Seller on or before the Closing Date, arising from the ownership or operation of the Acquired Assets or the System on or before the Closing Date; (ii) no Taxing authority has asserted any claim against the Seller for the assessment of any additional Tax liability or initiated any action or proceeding which could result in such an assertion; and (iii) the Seller has made all withholding of Taxes required to be made under all applicable Laws and regulations, including without limitation, withholding with respect to compensation paid to employees, and the amounts withheld have been properly paid over to the appropriate Taxing authorities. This section does not apply to any Tax matter related to an employee benefit plan or compensation arrangement that is addressed separately in Section 4.11.

#### Section 4.09. **Real Property and Easements**

Schedule 4.09 identifies all of Seller's fee interests in and to real property ("Real Property") Seller owns and uses in the operation of the System and separately identifies the Easements. Neither Seller nor the Municipality lease (as lessee) any real property that is used in the operation of the System. There are no pending condemnation proceedings relating to any of the Real Property or Easements nor has Seller or the Municipality actually received any written threats of any condemnation proceedings and, to the Knowledge of Seller and the Municipality, no such proceedings are threatened. Neither Seller nor the Municipality have received any written notices of any violations of any Law from any Governmental Authority with respect to the Real Property or the Easements which has not been cured in all material respects and, to Seller's or the Municipality's Knowledge, no such violations of Law exist. With respect to the Real Property (i) there are no leases, options, rights of reversions or other rights of use or rights to acquire the Real Property held by third parties, (ii) Seller or the Municipality is in sole possession of the Real Property, and (iii) to Seller's and the Municipality's Knowledge there are no encroachments either

way across the boundary of the Real Property, nor any dispute with adjacent property owners over the location of boundaries or potential claims adverse to title.

#### Section 4.10. **Equipment and Machinery**

All Equipment and Machinery included in the Acquired Assets is set forth and otherwise described on Schedule 4.10. Except as set forth in Schedule 4.10, the Seller has good title, free and clear of all Liens (other than the Permitted Liens and Liens which are released on or before Closing) to the Equipment and Machinery owned by Seller.

#### Section 4.11. **Employee Benefit Plans**

(a) Schedule 4.11(a) contains a true and complete list of all Seller's Plans and Seller's Benefit Obligations, including amounts owed to current or past employees for severance, unpaid and unused vacation pay or sick leave, or similar obligations. All such Seller's Plans and Seller's Benefit Obligations are in full force and effect and are in material compliance both as to form and operation, with applicable provisions of ERISA or the Code, and any other applicable Laws, and with any applicable collective bargaining agreement. To Seller's Knowledge, no event has occurred which has resulted in the imposition of any liability on the Seller under the Code or other applicable Law with respect to any Seller's Plans or Seller's Benefit Obligations and there is no unfunded pension liability owed or owing to any Person pursuant to Seller's Plans that is required to be assumed by Buyer;

(b) Except as set forth in Schedule 4.11(b), the Seller does not sponsor, maintain, contribute to, nor is it required to contribute to, any "multiemployer plan" within the meaning of Section 14(f) of the Code, and has no liability of any nature, whether known or unknown, fixed or contingent, with respect to any such multiemployer plan;

(c) Except as set forth on Schedule 4.11(c), Seller does not sponsor, maintain, contribute to, nor is it required to contribute to, any medical, health, life or other welfare plan or benefits for present or future terminated or retired Personnel or their spouses or dependents, other than as required by COBRA, or any comparable state law, and has no liability of any nature, whether known or unknown, fixed or contingent, with respect to any such post-termination welfare benefits;

(d) The Seller is and has been in compliance in all material respect with the requirements of COBRA and is not subject to any excise Tax under Code Section 4980B for the current or any prior taxable year; and

(e) Except as set forth in Schedule 4.11(e), the Seller has not entered into any severance or similar arrangement with respect to any present or former Personnel that will result in any obligation (absolute or contingent) of Buyer to make any payment to any present or former Personnel following termination of employment, including the termination of employment effected by the transactions contemplated by this Agreement. The consummation of the transactions contemplated by this Agreement will not trigger any severance or other obligation of the Seller for which Buyer shall have any liability.

#### Section 4.12. **Seller's Personnel**

(a) Schedule 4.12(a) sets forth all collective bargaining agreements and contractual relationships with Personnel relating to the System to which the Seller is a party, including the identification of the parties thereto and the expiration dates. Other than the collective bargaining agreements and relationships set forth in Schedule 4.12(a), there are no commitments, contracts, agreements, arrangements or understandings (whether written or oral, formal or informal) of the Seller with respect to the Union or the Union Personnel, and the collective bargaining agreements described on Schedule 4.12(a) constitute the entire agreement between the Seller and the other parties thereto, with respect to the subject matter thereof.

(b) Except as set forth on Schedule 4.12(b), the Seller shall timely pay, or cause to be timely paid, the Personnel as required under its policies and/or by applicable Law for accrued but unused and unpaid vacation, sick leave and other accrued benefits as of the Closing Date.

(c) The Seller has not, in the past five (5) years, effectuated:

(i) a “plant closing” (as defined in the Worker Adjustment and Retraining Notification Act (“WARN Act”)) affecting any site of employment or one or more facilities or operating units within any site of employment or facility of the System; or

(ii) a “mass layoff” (as defined in the WARN Act) affecting any site of employment or facility of the System; nor has the System been affected by any transaction or engaged in layoffs or employment terminations sufficient in number to trigger application of any similar state or local Law.

None of the Personnel has suffered an “employment loss” (as defined in the WARN Act) during the previous six months.

#### Section 4.13. **Environmental Compliance**

Except as set forth in Schedule 4.13 or that otherwise could not be expected to have a Material Adverse Effect:

(a) To the Seller’s knowledge, the System as currently operated by the Seller and all operations and activities conducted by the Seller with respect to the System are in compliance in all material respects with all applicable Environmental Requirements.

(b) To the Seller’s knowledge, the Seller has generated, used, handled, treated, stored and disposed of all Hazardous Materials in (i) compliance in all material respects with all applicable Environmental Requirements and (ii) a manner that has not given, and could not reasonably be anticipated to give, rise to Environmental Liabilities.

(c) Except as has been disclosed to Buyer on Schedule 4.13, the Seller has not received notice of any Environmental Claims related to the System that have not been fully and finally resolved, and to the knowledge of Seller no claims of Environmental Liabilities have been threatened allegedly arising from or relating to the System that have not been fully and finally resolved.

(d) To Seller's knowledge there has been no Release of Hazardous Materials at, on or from any part of the System or the Acquired Assets, in each case in a manner that violates any Environmental Requirements or has resulted in, or could reasonably be anticipated to give rise to, Environmental Liabilities which has not been appropriately resolved pursuant to applicable Environmental Requirements.

(e) No Lien or activity use limitation or institutional control has been recorded affecting any Acquired Assets by any Governmental Authority due to either the presence of any Hazardous Material on or off the Acquired Assets or a violation of any Environmental Requirement except as has been disclosed by Seller to Buyer.

(f) Seller is not aware of any underground storage tanks on or at any of the Acquired Assets. To the Seller's knowledge, any underground storage tanks previously located at the Acquired Assets have been removed or otherwise closed, plugged and abandoned in compliance with applicable Environmental Requirements in effect at the time of such closure.

(g) Seller is not aware of any PCB Equipment on or at any of the Acquired Assets.

(h) Seller is not aware of any Regulated Asbestos Containing Material in or on the Acquired Assets.

(i) The Seller has delivered to Buyer (1) all material environmental site assessments pertaining to the System it is aware of, (2) all material compliance audits or compliance assurance reviews prepared within the previous five (5) years relating to compliance with Environmental Requirements by the System, and (3) all documents pertaining to, any known and unresolved Environmental Liabilities incurred in relation to the System, to the extent possessed by or under the reasonable control of the Seller.

#### Section 4.14. **Authorizations and Permits**

Schedule 4.14 lists or describes the Authorizations and Permits of the Seller. The Seller has made true and complete copies of all Authorizations and Permits available to Buyer. Except as set forth on Schedule 4.14, the Seller is in compliance in all material respects with all terms, conditions and requirements of all Authorizations and Permits, except in each case where such violation or failure, individually or in the aggregate, would not have a Material Adverse Effect, and no proceeding is pending or, to the Knowledge of the Seller and the Municipality threatened relating to the revocation or limitation of any of the Authorizations or Permits, other than those revocations or limitations which do not individually or in the aggregate have a Material Adverse Effect.

#### Section 4.15. **System Contracts**

(a) Schedule 4.15 contains a complete and accurate list of all the Assigned Contracts.

(b) The Seller has made available to Buyer true and complete copies of all the contracts primarily related to the System, including the foregoing Assigned Contracts.

(c) All of the Assigned Contracts specified in Schedule 4.15 are in full force and effect. Seller has not, nor to the Knowledge of the Seller has any other party thereto, breached any material provision of or defaulted under the material terms of, nor does any condition exist which, with notice or lapse of time, or both, would cause the Seller, or to the Knowledge of Seller, any other party, to be in default under any Assigned Contract.

**Section 4.16. Compliance with Law; Litigation**

(a) The Seller has operated and is operating the System in compliance, in all material respects, with all applicable Laws, Authorizations and Permits and is not in breach of any applicable Law, Authorization or Permit that would have a Material Adverse Effect on the operations of the System or on the Buyer. There are no Authorizations or Permits from any Governmental Authority necessary for the operation of the System as currently being operated except for those Authorizations and Permits listed in Schedule 4.14.

(b) Except as disclosed to the Buyer in the Schedules (as updated pursuant to Section 9.03), there are no facts, circumstances, conditions or occurrences regarding the System that could reasonably be expected to give rise to any environmental claims or governmental enforcement actions that could reasonably be expected to have a Material Adverse Effect, and there are no past, pending or threatened environmental claims or governmental enforcement actions against the Seller that individually or in the aggregate could reasonably be expected to have a Material Adverse Effect.

(c) There is no action, suit or proceeding, at law or in equity, or before or by any Governmental Authority, pending nor, to the Knowledge of the Seller, threatened against the Seller before or at the Closing Effective Time, which will have a Material Adverse Effect. As of the date of this Agreement, there is no action, suit or proceeding, at Law or in equity, or before or by any Governmental Authority, pending nor, to the Knowledge of the Seller, threatened against the Seller which could materially affect the validity or enforceability of this Agreement.

**Section 4.17. Broker's and Finder's Fees**

No broker, finder, or Person is entitled to any commission or finder's fee by reason of any agreement or action of Seller and the Municipality in connection with this Agreement or the transactions contemplated by this Agreement. Municipality has employed Public Financial Management, Inc., as municipal advisor to provide transaction structuring advice and to provide Seller with municipal advice relating to the sale of the System. Municipality is solely responsible to pay all fees owed to Public Financial Management, Inc. in connection with the transactions contemplated by this Agreement.

**Section 4.18. Title to the Acquired Assets; Sufficiency**

(a) Except as set forth on Schedule 4.18(a), the Seller has good and marketable title to, valid leasehold interest in or valid licenses to use, all of the Acquired Assets, free and clear of all Liens, other than Permitted Liens and Liens which will be fully and unconditionally released at or before Closing. The use of the Acquired Assets is not subject to any Liens, other than Permitted Liens, and such use does not encroach on the property or the rights of any Person.

(b) Except as set forth on Schedule 4.18(b), the Acquired Assets are sufficient for, and constitute all the assets, properties, business, goodwill and rights of every kind and description, and services required for, the continued conduct and operation of the System by Buyer in substantially the same manner as currently conducted and operated by Seller. Except for the Excluded Assets and except as set forth on Schedule 4.18(b), (i) the Acquired Assets, taken as a whole, comprise all the assets, properties, business, goodwill and rights of every kind and description used or held for use in, or useful or necessary to the operation of the System as currently operated by Seller, and (ii) there are no assets, properties, business, goodwill, rights or services used in the conduct or operation of the System that are owned by any Person other than Seller that will not be licensed or leased to Buyer under valid, current license arrangements or leases. None of the Excluded Assets are material to the System.

#### Section 4.19. **Pending Development Plans**

Schedule 4.19 sets forth a full and complete list of all Pending Development Plans as of the Effective Date. Each Pending Development Plan, if consummated, could result in additional customers and reduction of available treatment capacity. Municipality provides no assurances whatsoever that any development or expansion of the Service Area associated with any Pending Development Plan will actually be undertaken or completed. The Parties expect that Schedule 4.19 will change from time to time between the Effective Date and Closing, and the Municipality shall provide updates to Schedule 4.19 pursuant to Section 9.03.

### ARTICLE V.

#### **REPRESENTATIONS AND WARRANTIES OF BUYER**

Buyer makes only the representations and warranties which are set forth in this Article V.

As a material inducement to the Seller and the Municipality to enter into this Agreement and to consummate the transactions contemplated hereby, Buyer represents and warrants to the Seller and the Municipality, as of the Effective Date and as of the Closing Date (except to the extent any of the following representations and warranties specifically apply or relate to another date, in which event such representations and warranties shall be true and correct as of such other date), as follows:

#### Section 5.01. **Organization**

The Buyer is duly organized, validly existing and in good standing under the laws of the state of its organization.

#### Section 5.02. **Authorization and Validity of Agreement**

The Buyer has the power and authority to enter into this Agreement and to do all acts and things and execute and deliver all other documents as are required hereunder to be done, observed or performed by it in accordance with the terms hereof. This Agreement has been duly authorized, executed and delivered by the Buyer and constitutes a valid and legally binding obligation of the Buyer, enforceable against it in accordance with the terms hereof, subject only to applicable

bankruptcy, insolvency and similar laws affecting the enforceability of the rights of creditors generally and to general principles of equity.

Section 5.03. **No Conflict or Violation**

The execution and delivery of this Agreement by the Buyer, the consummation of the transactions contemplated by this Agreement and the performance by the Buyer of the terms, conditions and provisions hereof has not and will not contravene or violate or result in a material breach of (with or without the giving of notice or lapse of time, or both) or acceleration of any material obligations of the Buyer under (i) any applicable Law, (ii) any material agreement, instrument or document to which the Buyer is a party or by which it is bound or (iii) the articles, bylaws or governing documents of the Buyer.

Section 5.04. **Consents and Approvals**

Schedule 5.04, sets forth a list of each consent, waiver, authorization or approval of any Governmental Authority, or of any other Person, and each declaration to or filing or registration with any Governmental Authority required in connection with the execution and delivery of this Agreement by Buyer or the performance by Buyer of its obligations hereunder.

Section 5.05. **Broker's and Finder's Fees**

No broker, finder or third party is entitled to any commission or finder's fee in connection with this Agreement or the transactions contemplated by this Agreement.

Section 5.06. **Financial Wherewithal**

Upon Closing, and after giving effect to the consummation of the transactions contemplated by this Agreement and the incurrence of any indebtedness in connection therewith, Buyer shall have the financial ability and will have sufficient working capital for its needs and anticipated needs to operate the System [as a certificated public utility system regulated by the PaPUC] authorized, among things, to provide wastewater utility services to retail residential, commercial and industrial customers in the System.

Section 5.07. **Sufficient Funds**

Buyer shall have sufficient funds available at Closing to consummate the transactions contemplated by this Agreement, to pay the Purchase Price in accordance with Article III and expenses related to the transactions contemplated by this Agreement, and on and after Closing, to generally provide ownership, operation and capital for the operations and capital needs of the System following the Closing, and assuring that the customers of the System will receive safe, adequate and reliable wastewater service equal to or better than such customers would have received without the transactions contemplated by this Agreement and at all times consistent with the provisions of the Pennsylvania Public Utility Code, 66 Pa. C. S. § 101 *et seq*, and applicable Law.

Section 5.08. **Independent Decision**

Except as expressly set forth in this Agreement, or any of the related agreements, Buyer acknowledges that (a) neither Seller nor the Municipality has made any representation or warranty, express or implied, as to the accuracy or completeness of the System or information provided to Buyer, and (b) neither Seller nor the Municipality shall have or be subject to any liability to Buyer or any other Person resulting from the distribution to Buyer, or Buyer use of, any information regarding the System or Acquired Assets that has been furnished or made available to Buyer and its Representatives. Buyer acknowledges that other than as expressly set forth in this Agreement or any related agreement, Seller and the Municipality expressly disclaim any warranty of income potential, operating expenses or costs of operation of any Acquired Assets or the System.

**Section 5.09. Scheduled Matters**

Buyer acknowledges that: (a) the inclusion of any matter on any Schedule is not an admission by Seller or the Municipality that such listed matter is material or that such listed matter has or could have a material adverse effect or constitutes a material liability with respect to the Acquired Assets; (b) matters reflected in the Schedules are not necessarily limited to matters required by this Agreement to be reflected in such Schedules; and (c) such additional matters are set forth for informational purposes only and do not necessarily include other matters of a similar nature.

**Section 5.10. Independent Investigation**

Buyer acknowledges that it has conducted an independent investigation of the financial condition, assets, liabilities, properties and projected capital needs and operations of the System in making its determination as to the propriety of the transaction contemplated by this Agreement and, in entering into this Agreement and related agreements, has relied solely on the results of its investigation and on the representations and warranties of the Seller and the Municipality expressly contained in Article IV of this Agreement.

**Section 5.11. Litigation**

The Buyer is not in breach of any applicable Law that could have a material adverse effect on the operations of the System or the Buyer. Neither the Buyer nor any Affiliate of the Buyer is listed on any of the following lists maintained by the Office of Foreign Assets Control of the United States Department of the Treasury, the Bureau of Industry and Security of the United States Department of Commerce or their successors, or on any other list of Persons with which the Seller may not do business under applicable Law: the Specially Designated Nationals List, the Denied Persons List, the Unverified List, the Entity List and the Debarred List. Except as set forth on Schedule 5.11, there is no action, suit or proceeding, at law or in equity, or before or by any Governmental Authority, pending nor, to the Knowledge of the Buyer, threatened against the Buyer before or at the Closing Effective Time, which will have a material adverse effect on (i) the transactions contemplated by this Agreement or (ii) the validity or enforceability of this Agreement.

**ARTICLE VI.**

**TITLE TO REAL ESTATE; EASEMENTS**

**Section 6.01. Evidence of Title**

Subject to Section 6.06, with respect to all Real Property, Buyer shall obtain, at its sole cost and expense, a commitment for an owner's policy of title insurance on the American Land Title Association's ("ALTA") Owner's Form 2006 (the "Title Commitment"), issued by a title insurance company selected by Buyer and licensed to insure title to real property by the Commonwealth of Pennsylvania (the "Title Company"), having an effective date after the Effective Date. Following the Effective Date, Buyer shall order the Title Commitment from the Title Company and shall provide Seller and the Municipality evidence of the same. Notwithstanding anything to the contrary in Section 6.02(a) below, Buyer shall not be entitled to send an Objection Notice with respect to any parcel of Real Property and the Title Commitment for the same if, within thirty (30) Business Days after the Effective Date, Buyer has not ordered the Title Commitment from the Title Company for such parcel of Real Property and provided with Seller and the Municipality evidence of the same.

### Section 6.02. Objections to Title

(a) Notice of Objections. Within thirty (30) days of Buyer's receipt from the Title Company of a Title Commitment for any of the parcels of Real Property, Buyer shall deliver to Seller and the Municipality a true, correct and complete copy of the Title Commitment and true, correct, complete and legible copies of any and all exception documents listed in the same, along with Buyer's written notice to Seller and the Municipality of any of the exceptions to title set forth on Schedule B of such Title Commitment to which Buyer objects (such written notice of Buyer being referred to as the "Objection Notice") provided such exceptions (a) are not Permitted Liens, (b) pertain to the Buyer or any requirements, conditions or obligations of the Buyer, (c) are matters of record and set forth in the Title Commitment and materially and adversely restrict or prevent the use of the Real Property in the operation of the System and (d) are not standard Title Company exceptions (such as the "survey" exception) (such exceptions objected to in the Objection Notice, provided the same are not as described in (a) through and including (d) aforesaid, being referred to as the "Title Objection Items"). The Buyer shall include a true, correct and complete copy of the Title Commitment and true, correct, complete and legible copies of any and all exception documents listed in the same in the Objection Notice. If Buyer provides the Seller and the Municipality with an Objection Notice, the Seller and the Municipality shall use commercially reasonable efforts to have all of the Title Objection Items cured, satisfied or released of record, or insured over, by the Title Company (individually, "Cure" and collectively, "Cured") before or as of the Closing. At or before the Closing, the Seller and the Municipality shall deliver written evidence to Buyer, in form and substance reasonably satisfactory to Buyer, evidencing that Seller has Cured all such Title Objection Items. For avoidance of doubt, Buyer acknowledges that no item listed in clauses (a) through and including (d) aforesaid, may be objected to by Buyer as a Title Objection Item.

(b) Liens. Without limiting the Seller's obligations pursuant to Section 6.02(a) above, before or as of the Closing, the Seller shall, at the Municipality's cost and expense, to Cure any Lien encumbering the Real Property which can be Cured by the payment of money (other than Permitted Liens).

(c) Title Endorsements/Survey. Buyer shall pay for any endorsements required by the Buyer or any mortgagee of the Buyer to Buyer's Title Policy. If any survey is required by Buyer or its mortgagee, either as a condition to any such endorsement or otherwise, the Buyer shall obtain

it at its sole cost and expense. If Buyer obtains a survey of any or all of the Real Property and desires the deed to contain the legal description based on such survey, if the same is not identical to the legal description contained in Seller's deed of record, Seller is not obligated to include the same in the deed to Buyer unless the survey is certified to Seller and such description is included in the deed on a "quitclaim" basis only and without warranty of title.

(d) **Insurable Claims.** To the extent any Claim for Losses under Article VIII constitutes an Insurable Claim (as defined below), Buyer shall assert the Insurable Claim and use its commercially reasonable efforts to obtain recovery for such Insurable Claim against the Title Company (which shall include commencing litigation and diligently prosecuting such Insurable Claim to judgment) before pursuing a Claim for Losses under Article VIII. If at any time following a non-favorable judgment that substantially denies the relief sought by Buyer from the Title Company in connection with the Insurable Claim (each a "**Non-Favorable Judgment**"), Buyer may, following such Non-Favorable Judgment, to pursue the Municipality with a Claim for Losses under Article VIII (any such Claim against the Municipality following an attempted Insurable Claim against the Title Company being a "**Residual Title Claim**"). Notwithstanding anything to the contrary in Article VIII, Buyer may assert a Claim for Losses based upon a Residual Title Claim for a sixty (60) day period after the Non-Favorable Judgment. For purposes of this Section 6.02(d), an "**Insurable Claim**" means a Claim that: (i) arises out of Buyer's discovery of a title defect or encumbrance with respect to any of the Real Property following the Closing that materially restricts or prevents the use of such Real Property in the operation of the System; and (ii) constitutes a claim against the Title Company under Buyer's Title Policy. Buyer acknowledges that any and all Claims which Buyer could otherwise bring as a breach of a covenant of title under the special warranty deed to the Real Property shall be included within the Claim for Losses under Article VIII and is subject to the terms of this Section 6.02(d).

#### Section 6.03. **Title Expenses**

Irrespective of whether the transactions described by this Agreement are consummated and Closing occurs, Buyer shall pay all costs and expenses of obtaining the Title Commitment, Title Policy and any survey.

#### Section 6.04. **UCC Search; Releases**

Not later than ninety (90) days after the Effective Date, Buyer shall obtain at its sole cost and expense a Uniform Commercial Code search against Seller covering any of the personal property or fixtures included among the Acquired Assets from the Office of the Secretary of the Commonwealth of Pennsylvania and the Recorder of Montgomery County, Pennsylvania (the "**UCC Search**"). On or before the Closing Date, Municipality shall at its sole cost and expense obtain releases of any and all security interests in any of the Acquired Assets which are not Permitted Liens. The Seller shall provide the form of the releases of such security interests to Buyer on or before the Closing Date.

#### Section 6.05. **Easements.**

(a) Promptly after the Effective Date and before the Closing, the Municipality will, at its sole cost and expense, cause and abstractor selected by the Municipality and reasonably

acceptable to Buyer and the Title Company (the “Abstractor”), to perform a search of the public land records of Montgomery County, based on the Seller’s records and plans of the System (and such other sources of information as are reasonably related thereto), by searching the grantee index in the names of the Seller and such other searches as the Abstractor may reasonably make, to (i) identify and provide Buyer with title information on any and all recorded Easements (including information related to any Liens or encumbrances on Seller’s or the Municipality’s title thereto), and (ii) together with the Seller, identify all Missing Easements. During the process, as the Abstractor provides written search results to the Municipality (including updated versions of the Abstractor Search Result Chart), the Municipality will promptly provide the same to Buyer for its review, and, without limiting the foregoing, the Municipality shall, or shall cause the Abstractor to, provide Buyer with periodic updates (which shall occur no less frequently than bi-weekly) on the status of the activities set forth in the previous sentence.

(b) Notice of Objections. Within forty five (45) days of Buyer’s receipt from the Municipality (or the Abstractor) of the information described in subsection (a) above, Buyer shall deliver to Municipality written notice identifying the encumbrances on the Easements that, in Buyer’s reasonable opinion, could materially and adversely restrict or prevent the use of the Easements in the operation of the System, (an “Easement Objection Notice”). Buyer shall not be permitted to include in its Easement Objection Notice any encumbrances that: (a) are Permitted Liens, (b) pertain to the Buyer or any requirements, conditions or obligations of the Buyer, or (c) are matters of record and set forth in the Abstractor’s search results that do not, in Buyer’s reasonable opinion, materially and adversely restrict or prevent the use of the Easements in the operation of the System (specifically including mortgages or other instruments securing indebtedness incurred by the owner of the land burdened by the Easement) (such exceptions objected to in the Objection Notice, the “Easement Objection Items.” If Buyer provides the Municipality with an Easement Objection Notice, the Seller and the Municipality shall use commercially reasonable efforts to have the Easement Objection Items Cured, prior to or as of the Closing.

(c) If during the process of Abstractor’s review and investigation of the Montgomery County land records, Municipality determines, based on the Abstractor’s investigation, that there is a Missing Easement, the Seller (at the Municipality’s cost and expense) shall take any and all actions (including the use of its power of condemnation) to obtain any such Missing Easements so that the same may be sold, assigned, transferred and conveyed to Buyer at the Closing pursuant to the terms and conditions of this Agreement. The Municipality shall pay for all costs and expenses incurred in connection with obtaining each Missing Easement (including any consideration payable to the landowner in connection with condemnation, in lieu of condemnation or otherwise to obtain Missing Easements). If Municipality has not obtained all Missing Easements by the date that is ninety (90) days after the date that Abstractor has completed his review of the County land records and delivered the last results of the same to Municipality (the “Abstract Completion Date”), then the Seller (at the Municipality’s cost and expense) shall, as soon as reasonably practicable, commence and file in the Court of Common Pleas, Montgomery County, a condemnation or eminent domain proceeding to obtain any and all such Missing Easements. For the purposes of clarity, upon obtaining each Missing Easement (including upon the final resolution of a condemnation proceeding), each Missing Easement that has been acquired or obtained by the Municipality is considered an Easement.

Section 6.06. **Unscheduled Property**

The Parties acknowledge that the Seller may own interests in or have the legal right to use or occupy the Real Property that is necessary or essential to the operation of the System and that is not specifically identified in Schedule 4.09 (the “Unscheduled Real Property”). If the Parties discover before or after the Closing Date, one or more parcels of Unscheduled Real Property, the discovering Party shall give written notice of such discovery to the non-discovering Party. In addition to its obligations in Section 2.03, Seller (if not yet terminated) and the Municipality shall convey, assign or otherwise transfer any rights to each parcel of Unscheduled Real Property, with no adjustment to the Purchase Price, in such a manner as to provide Buyer with reasonable assurances that Buyer will have the right to use or occupy the Unscheduled Real Property as it was used by Seller as of the Effective Date.

**ARTICLE VII.**

**OTHER AGREEMENTS**

Section 7.01. **Taxes**

Except as hereinafter provided, the Seller shall pay any and all Taxes, if any, arising out of the ownership of the Acquired Assets and out of the operation of the System before the Closing Date.

Section 7.02. **Cooperation on Tax Matters**

The Seller shall furnish or cause to be furnished to Buyer, as promptly as practicable, whether before or after the Closing Date, such information and assistance relating to the System as is reasonably necessary for the preparation and filing by Buyer of any filings relating to any Tax matters.

Section 7.03. **Personnel Matters**

(a) Subject to the obligations of Seller under the Collective Bargaining Agreement and applicable Law and Buyer’s obligations set forth in Section 7.03(h) below with respect to Union Personnel, Buyer shall, or shall cause an Affiliate of Buyer to, offer employment effective on the Closing Date, to the Personnel set forth in Schedule 7.03(a), subject to Buyer’s existing standard hiring policies and procedures applicable to new employees, except with respect to benefits as otherwise provided in Section 7.03(c). The Personnel who accept such employment and commence employment on the Closing Date, are referred to in this Agreement as the “Transferred Personnel.” Buyer may make the required offer of employment at a reasonable time prior to the Closing Date to ensure there will be adequate staffing on the Closing Date. Nothing contained in Section 7.03 limits or restricts Buyer from interviewing Personnel for employment purposes in connection with the transfer of Personnel to Buyer.

(b) Transferred Personnel who are Non-Union Personnel will be employees-at-will of Buyer. Buyer shall provide each of the Transferred Personnel who are Non-Union Personnel compensation and benefits which are substantially comparable to the compensation and benefits then provided to similarly situated employees of Buyer. Nothing in this Agreement requires Buyer to provide any particular form or type of employee benefit program, plan or policy to any

Transferred Personnel who are Non-Union Personnel as a result of the transaction contemplated by this Agreement.

(c) Subject to the obligations of Seller under the Collective Bargaining Agreement and Law and Buyer's obligations set forth in Section 7.03(h) below with respect to Union Personnel, with respect to any employee benefit plan maintained by Buyer or an Affiliate of Buyer for the benefit of any Transferred Personnel, effective as of the Closing, Buyer shall, or shall cause its Affiliate to, recognize all service of the Transferred Personnel with Seller, as if such service were with Buyer for eligibility and vesting. Buyer's pension plans and retiree medical plans are excluded from the foregoing sentence.

(d) Subject to the obligations of Seller under the Collective Bargaining Agreement and applicable Law and Buyer's obligations set forth in Section 7.03(h) below with respect to Union Personnel, effective as of the Closing, the Transferred Personnel employment with Seller will end and will cease active participation in the Seller's Plans. Seller shall remain liable for all eligible claims for benefits under the Seller's Plans that are incurred by the Non-Union Personnel before the Closing Date. Subject to the obligations of Seller under the Collective Bargaining Agreement and applicable Law and Buyer's obligations set forth in Section 7.03(h) below with respect to Union Personnel, Seller shall remain liable to make any contributions to Seller's Plans related to, and/or to fund any retirement benefits accrued by, the Transferred Personnel before Closing.

(e) This Section 7.03 binds and inures solely to the benefit of each of the Parties to this Agreement, and nothing in this Section 7.03, express or implied, is conferred upon any other Person any rights or remedies of any nature whatsoever under or because of this Section 7.03. This Section 7.03 does not create any right in any Transferred Personnel or any other Person to any continued employment with Buyer or any of its Affiliates or compensation or benefits of any nature or kind whatsoever, and is not be deemed to restrict Buyer in the exercise of its independent business judgment in establishing or modifying any of the terms or conditions of the employment of the Transferred Personnel. Nothing contained in this Section 7.03 constitutes an amendment of, or an undertaking to amend, any employee benefit plan, program or arrangement maintained by Buyer or its Affiliates or is intended to prevent Buyer or its Affiliates from amending or terminating any such employee benefit plan, program or arrangement in accordance with its terms.

(f) Notwithstanding anything in this Agreement to the contrary, it is expressly understood that Buyer will not acquire any asset, or assume any liability or obligation in connection with the transactions contemplated by this Agreement relating to any of the Seller's Benefit Plans, Seller's Benefit Obligations. Seller is solely responsible for any liability, funding obligation, claim or expense arising from the Seller's Plans, Seller's Benefit Obligations, both before, and after, the Closing Date, except as provided in Section 7.03(c).

(g) At a reasonable time prior to the Closing Date, Seller shall transfer all records pertaining to the employment of the Transferred Personnel to Buyer including, but not limited to, all personnel and human resources Files and Records.

(h) On the Closing Date, Buyer shall assume all of Seller's obligations to the Union set forth in the Collective Bargaining Agreement and Buyer shall either assume the Collective Bargaining Agreement covering the Union Personnel or negotiate an amended and restated

collective bargaining agreement with the Union, including but not limited to all obligations arising on or after the Closing Date regarding vacation, sick time, insurance, severance, pension plans and early retirement.

**Section 7.04. Initial and Future Rates**

After Closing, Buyer shall charge the Seller's sanitary wastewater rates ("Base Rates"), as reflected on Schedule 7.04, as Buyer's initial base rates within the Service Area on and after the Closing Date. Buyer shall seek to consolidate these Base Rates to its then most applicable wastewater base rates over a series of rate cases, in the case of a PaPUC regulated company or approved rate increases, in the case of a municipal authority. The Base Rates shall not be increased until after the third anniversary of the Closing Date (the "Freeze Period"). Buyer shall apply, at and after Closing, its then-existing miscellaneous fees and charges, rules and regulations for wastewater service as set forth in Buyer's Tariff within Seller's Service Area.

**Section 7.05. Buyer Taxpayer**

From and after the Closing Date, Buyer acknowledges that, upon conveyance of the Acquired Assets to Buyer, the Buyer will be subject to, among other Taxes, real estate Taxes, which Buyer shall pay when due.]

**Section 7.06. PaPUC Approval**

(a) Promptly after the Effective Date, Buyer shall timely initiate and faithfully prosecute the necessary proceedings to obtain from the PaPUC (i) the issuance of certificates of public convenience to Buyer to provide wastewater services in the Service Area and (ii) the approval of the acquisition of the System by Buyer under terms and conditions that are reasonably acceptable to Seller, the Municipality and Buyer. Seller and the Municipality shall cooperate with and assist Buyer in proceedings before the PaPUC.

(b) The Parties agree that the procedures for determining fair market value of the System and Acquired Assets outlined in subsection (a) of Section 1329 of Title 66 of the Pennsylvania Consolidated Statutes ("Section 1329") shall be utilized and filed with the PaPUC as contemplated by Section 1329.

(c) The fees and expenses related to engaging the licensed engineer for such Section 1329 determination shall be paid fifty percent (50%) by Buyer and fifty percent (50%) by Municipality.

(d) To the extent requested by Buyer, Seller and the Municipality shall participate in any proceedings before the PaPUC as an intervenor and active party, provided that the Municipality shall bear the fees and expenses directly related to such intervention, including legal expenses, that are reasonably incurred up to an aggregate cap of \$20,000. Buyer shall pay any such costs reasonably incurred in excess of the aggregate cap of \$20,000 up to an amount not to exceed \$85,000, above which any such costs incurred by the Municipality shall be paid by the Municipality. Seller and the Municipality may be represented by the counsel of their choice in any such proceedings.

(e) Buyer, in Buyer's first base rate proceeding with respect to the System following the Closing, shall propose the use of statutory and regulatory mechanisms available to benefit the Buyer's acquired customers for ratemaking purposes.]

**Section 7.07. Remedies for Breach of Article VII Agreements**

If Buyer breaches any of the covenants and agreements set forth in this Article VII, in addition to all other rights and remedies available at law or in equity, including specific performance and/or injunctive relief, Seller may commence proceedings before the PaPUC seeking enforcement of such covenants and agreements.]

**Section 7.08. Operation and Maintenance of MS4 and Stormwater Systems**

Subject to Law, the Municipality shall at all times maintain ownership of its MS4 system and stormwater system assets.

**Section 7.09. Pending Development Plans**

(a) Buyer and the Municipality acknowledge that from the time of the Effective Date, the Municipality shall continue to administer, and perform its duties and responsibilities with respect to the Pending Development Plans set forth on Schedule 4.19. For the avoidance of doubt, after the Closing Date, the Seller and the Municipality shall not seek to collect any EDU-related fees.

(b) Following the Effective Date, except with respect to the Planned Project that is described in Section 7.09(c), Seller shall not enter into any contract with a third party that contemplates the construction of new sanitary wastewater facilities, including, without limitation, pumping stations, force mains, manholes, or pipelines for service to future customers related to Pending Development Plans (collectively, "New System Assets") without providing a draft of such contracts to Buyer for its review and approval as to the design and specifications before execution by the parties to such contracts. Buyer shall have fifteen (15) Business Days to review and approve such contracts, and Buyer's failure to object in writing to any terms of such contracts within such fifteen (15) Business Day review period is deemed an approval of the same by Buyer.

(c) Notwithstanding any other provision of this Agreement, Seller shall have the right to undertake and complete certain improvements and upgrades to its treatment plant facilities located at 368 East Washington Street (the "Planned Project") in compliance with the subdivision and land development and zoning hearing board approvals granted by the Municipality and the requirements of the PaDEP included in the Seller's part II permitting. Specifically, the Planned Project includes the following:

(i) Replacement of facility maintenance structure, and chlorine distribution building; construction of power supply center, maintenance building and chlorine facilities blowers center; rehabilitation operations and solid processing building; and, required security fencing and landscaping;

(ii) Upgrades to the electrical distribution system including replacing the existing 480V electrical distribution with new electrical distribution located in electrical

distribution building; upgrade the solids handling including replacement and relocation of the belt filter press including a polymer feed system for the belt filter press and material handling systems and process electrical and control systems; and upgrades to the secondary clarifier performance with granular sludge process, clarifiers baffles, or a combination of the two; and

(iii) Replacement of the influent pumps with new dry pit submersible pumps and process electrical and control for the pumping systems; providing channels, pipes and gates to allow the isolation of the pre-aeration basin; installation of new high efficiency aeration blowers, high efficiency diffusers, and automated aeration control; and installation of plant SCADA control system with PLC controls and communications in the affected areas including influent pumping, aeration and solids handling.

(iv) Acknowledgement that the current contract between Seller and West Norriton Township related to capacity, expenditure sharing and capital cost contributions at Seller's treatment plant, as set forth in the Intermunicipal Treatment Agreement dated November 16, 1985 ("ITA") (listed on Schedule 4.15) requires contribution from West Norriton Township of its proportionate share of the Planned Project costs and expenses. The method and timing of the contributions are under discussion between Seller and West Norriton Township and may result in an amendment or supplement to the ITA.

#### Section 7.10. **Act 537 Plan**

(a) Buyer acknowledges that Municipality has relied on the Montgomery County Planning Commission's Act 537 Plan under the Pennsylvania Sewage Facilities Act (the "Plan"), which has been made available to Buyer. Buyer understands that the Plan contains obligations and commitments, as more fully set forth in the Plan to complete certain improvements and upgrades to the System (the "System Improvements"). Buyer shall accept and complete all of the System Improvements as Municipality agreed to complete under the Plan.

(b) Buyer acknowledges Municipality has jurisdiction over sewage facilities planning and sewer service within portions of the System that provide service within the Municipality through the Plan and its Act 537 planning program, zoning, subdivision and land development ordinances and comprehensive land use planning policies. Buyer and Municipality shall cooperate with respect to current and future sewage facilities planning and sewer service consistent with the provisions of this Section 7.10.

(c) [Subject to PaPUC approval of the Service Area as provided in Section 7.10], Buyer shall extend sewer lines and provided sewage collection and treatment services to properties within the Service Area in a manner consistent with the Plan and the Buyer's Tariff. Municipality will confer with Buyer concerning any amendment to the Plan that would affect the provision of sewage collection and treatment services within the Service Area. Municipality shall not propose or adopt any amendment to the Plan that would reduce the Service Area or divert wastewater flows generated from properties located within the Service Area from being served by the System without the approval of Buyer.

(d) Buyer will not request, pursue, or implement expansions of the System within the Municipality beyond the current Service Area (that would trigger a Plan amendment) without the prior written approval of Municipality and the PaDEP. Municipality shall promptly notify and confer with Buyer, and consider Buyer's comments, concerning any proposed Plan amendment (including any sewage facilities planning module) that would involve the provision of sewage collection and treatment services by the System to area or properties outside of the Service Area. With respect to any such potential Plan amendment, Municipality and Buyer shall cooperate in evaluating alternatives for provision of sewage services to such areas consistent with the requirements of 25 Pa Code Ch. 71, including consideration of the technical feasibility, economic feasibility and cost effectiveness, consistency with the objectives and policies of plans and requirements of 25 Pa. Code Ch. 71.21(a)(5), consistency with municipal land use plans and ordinances, subdivision ordinances and other ordinances and plans for controlling land use and development, technically and administratively able to be implemented, and other factors required under Act 537 or under Buyer's Tariff.

(e) If Municipality and Buyer each determine that the provision of sewage collection and treatment services by the System to certain areas or properties outside of the Service Area is technically feasible, economically feasible and cost effective, and meets all of the requirements set forth in Act 537 and 25 Pa. Code Ch. 71, the Municipality shall amend the Plan to include such identified areas and properties in the Service Area. If Municipality amends the Plan pursuant to this subsection and such amendment is approved by PaDEP, (i) [Buyer shall request that the modified Service Area be approved by PaPUC]; and (ii) [subject to PaPUC approval of the inclusion of such modified Service Area], Buyer shall extend sewer lines and provide sewage collection services to properties within such Service Area in a manner consistent with the Plan and Buyer's Tariff.

#### Section 7.11. **Utility Valuation Experts**

Buyer and Municipality (on behalf of Seller) shall each will be responsible for the costs associated with their respective Utility Valuation Expert for the preparation and completion of their respective Utility Valuation Expert's appraisal report and any additional work by their respective Utility Valuation Expert necessary to assist in the processing and prosecution of the application to the PaPUC in regard to this transaction under Section 1329.

#### Section 7.12. **Covenant Survival**

The covenants set forth in this Article survive Closing.

### **ARTICLE VIII.**

#### **INDEMNIFICATION**

#### Section 8.01. **Survival**

All representations and warranties contained in this Agreement shall survive until twelve (12) months following the Closing Date, except that (a) the representations and warranties of the Seller and the Municipality set forth in Section 4.01 (Organization), Section 4.02 (Power and Authority),

Section 4.03 (Enforceability) and Section 4.17 (Brokers' and Finders' Fees) (collectively, the "Seller Fundamental Representations") shall survive the Closing indefinitely or until the latest date permitted by applicable Law, and (b) the representations and warranties of Buyer set forth in Section 5.01 (Organization), Section 5.02 (Authorization and Validity of Agreement), and Section 5.05 (Brokers' and Finders' Fees) (collectively, the "Buyer Fundamental Representations") shall survive the Closing indefinitely or until the latest date permitted by applicable Law. The covenants and agreements of the Parties contained herein shall survive the Closing indefinitely or for the shorter period explicitly specified therein, except that for such covenants and agreements that survive for such shorter period, breaches thereof shall survive indefinitely or until the latest date permitted by applicable Law. Notwithstanding the preceding sentences, (x) any breach of representation, warranty, covenant or agreement in respect of which indemnity may be sought under this Agreement shall survive the time at which it would otherwise terminate pursuant to the preceding sentences, if notice of the inaccuracy or breach thereof giving rise to such right of indemnity shall have been given to the party against whom such indemnity may be sought before such time, and (y) nothing contained in this Section 8.01 shall limit in any way any rights a Party may have to bring claims grounded in fraud, intentional misrepresentation or willful misconduct, which rights shall survive the Closing indefinitely.

#### Section 8.02. **Indemnification by the Seller and Municipality**

To the maximum extent permitted by applicable Law and subject to the terms and conditions of this Article VIII, the Seller and Municipality shall indemnify, defend and hold harmless, Buyer and its successors and Affiliates and their respective employees, officers, directors, trustees and agents (the "Buyer Indemnified Persons"), from and against any and all claims for Losses arising from or relating to: (a) any material misrepresentation as to, or any material inaccuracy in, any of the representations and warranties of the Seller and the Municipality contained in this Agreement or in any exhibit, schedule, certificate or other instrument or document furnished or to be furnished by the Seller or the Municipality before the Closing pursuant to this Agreement (without regard to any materiality, Material Adverse Effect or related qualifications in the relevant representation or warranty (except where such provision requires disclosure of lists of items of a material nature or above a specified threshold)); (b) any material breach or material nonfulfillment of any of the covenants or agreements of the Seller and the Municipality contained in this Agreement or in any exhibit, schedule, certificate or other instrument or document furnished or to be furnished by the Seller and the Municipality before the Closing pursuant to this Agreement; or (c) any Excluded Liability or Excluded Asset.

#### Section 8.03. **Indemnification by Buyer**

To the maximum extent permitted by applicable Law and subject to the terms and conditions of this Article VIII, Buyer shall defend, indemnify and hold harmless the Seller, the Municipality and its successors and Affiliates and each of their respective employees, officers, directors and agents (the "Seller Indemnified Persons") from and against any and all claims for Losses arising from or relating to: (a) any material misrepresentation as to, or any material inaccuracy in, any of the representations and warranties of Buyer contained in this Agreement or in any exhibit, schedule, certificate or other instrument or document furnished or to be furnished by Buyer pursuant to this Agreement; (b) any material breach of any of the covenants or agreements of Buyer contained in this Agreement or in any exhibit, schedule certificate or other instrument or document furnished

or to be furnished by the Buyer pursuant to this Agreement; (c) any Assumed Liability as and when payment and performance is due, including without limitation any liability related to any claims by any Governmental Authority; (d) Buyer's actions involving Environmental Requirements, Hazardous Materials or environmental claims from and after the Closing Date; or (e) the ownership, operation or control of the Acquired Assets or the System from and after the Closing Date.

#### Section 8.04. **Indemnification Procedure**

(a) **Third Party Claims.** If any Indemnified Party receives notice of the assertion or commencement of any action, suit, claim or other legal proceeding made or brought by any Person who is not a party to this Agreement or an Affiliate of a party to this Agreement or a representative of the foregoing (a "**Third Party Claim**") against such Indemnified Party with respect to which the Indemnifying Party may be obligated to provide indemnification under this Agreement, the Indemnified Party shall give the Indemnifying Party prompt written notice thereof. The failure to give such prompt written notice shall not, however, relieve the Indemnifying Party of its indemnification obligations, except and only to the extent that the Indemnifying Party forfeits material rights or material defenses because of such failure. Such notice by the Indemnified Party shall describe the Third Party Claim in reasonable detail and shall indicate the estimated amount, if reasonably practicable, of the Loss that has been or may be sustained by the Indemnified Party. The Indemnifying Party may participate in, or by giving written notice to the Indemnified Party (and subject to the other requirements herein) to assume the defense of any Third Party Claim at the Indemnifying Party's expense and by the Indemnifying Party's own counsel (which counsel is reasonably acceptable to the Indemnified Party), so long as (i) the Indemnifying Party notifies the Indemnified Party, within ten (10) Business Days after the Indemnified Party has given notice of the Third Party Claim to the Indemnifying Party (or by such earlier date as may be necessary under applicable procedural rules in order to file a timely appearance and response) that the Indemnifying Party is assuming the defense of such Third Party Claim, *provided*, that if the Indemnifying Party assumes control of such defense it must first agree and acknowledge in such notice that the Indemnifying Party is fully responsible (with no reservation of any rights other than the right to be subrogated to the rights of the Indemnified Party) for all Losses relating to such Third Party Claim, (ii) the Indemnifying Party conducts the defense of the Third Party Claim actively and diligently and at its own cost and expense, and (iii) the Third Party Claim (A) does not involve injunctive relief, specific performance or other similar equitable relief, any claim in respect of Taxes, any Governmental Authority, any criminal allegations, or any potential damage to the goodwill, reputation or overriding commercial interests of Buyer or its Affiliates, (B) is not one in which the Indemnifying Party is also a party and joint representation would be inappropriate or there may be legal defenses available to the Indemnified Party which are different from or additional to those available to the Indemnifying Party, or (C) does not involve a claim which, upon petition by the Indemnified Party, the appropriate court rules that the Indemnifying Party failed or is failing to vigorously prosecute or defend. The Indemnified Party shall reasonably cooperate in good faith in such defense. If the Indemnifying Party assumes the defense of any Third Party Claim, subject to Section 8.04(b), it shall have the right to take such action as it deems necessary to avoid, dispute, defend, appeal or make counterclaims pertaining to any such Third Party Claim in the name and on behalf of the Indemnified Party. The Indemnified Party may, at its own cost and expense, to participate in the defense of any Third Party Claim with counsel selected by it subject to the Indemnifying Party's right to control the defense thereof. If the Indemnifying Party elects not to

compromise or defend such Third Party Claim or fails to promptly notify the Indemnified Party in writing of its election to defend as provided in this Agreement, the Indemnified Party may, subject to Section 8.04(b), pay, compromise, defend such Third Party Claim and seek indemnification for any and all Losses based upon, arising from or relating to such Third Party Claim. The Seller, the Municipality and Buyer shall reasonably and in good faith cooperate with one another in all reasonable respects in connection with the defense of any Third Party Claim, including making available records relating to such Third Party Claim and furnishing, without expense (other than reimbursement of actual out-of-pocket expenses) to the defending party, management employees of the non-defending party as may be reasonably necessary for the preparation of the defense of such Third Party Claim.

(b) Settlement of Third Party Claims. Notwithstanding any other provision of this Agreement, the Indemnifying Party shall not enter into settlement of any Third Party Claim without the prior written consent of the Indemnified Party (which consent shall not be unreasonably withheld or delayed), except as provided in this Section 8.04(b). If a firm offer is made to settle a Third Party Claim without leading to liability or the creation of a financial or other obligation on the part of the Indemnified Party and provides, in customary form, for the unconditional release of each Indemnified Party from all liabilities and obligations in connection with such Third Party Claim and the Indemnifying Party desires to accept and agree to such offer, the Indemnifying Party shall give prompt written notice to that effect to the Indemnified Party. If the Indemnified Party fails to consent to such firm offer within fifteen (15) days after its receipt of such notice, the Indemnified Party may continue to contest or defend such Third Party Claim and in such event, the maximum liability of the Indemnifying Party as to such Third Party Claim shall not exceed the amount of such settlement offer. If the Indemnified Party fails to consent to such firm offer and also fails to assume defense of such Third Party Claim, the Indemnifying Party may settle the Third Party Claim upon the terms set forth in such firm offer to settle such Third Party Claim. If the Indemnified Party has assumed the defense pursuant to Section 8.04(a), it shall not agree to any settlement without the written consent of the Indemnifying Party (which consent shall not be unreasonably withheld or delayed).

(c) Direct Claims. Any claim by an Indemnified Party with respect to any Loss which does not arise or result from a Third Party Claim (a "Direct Claim") shall be asserted by the Indemnified Party giving the Indemnifying Party prompt written notice thereof. The failure to give such prompt written notice shall not, however, relieve the Indemnifying Party of its indemnification obligations, except and only to the extent that the Indemnifying Party forfeits material rights or material defenses because of such failure. Such notice by the Indemnified Party shall describe the Direct Claim in reasonable detail and shall indicate the estimated amount, if reasonably practicable, of the Losses that have been or may be sustained by the Indemnified Party. The Indemnifying Party shall have thirty (30) days after its receipt of such notice to respond in writing to such Direct Claim. During the thirty (30) day period, the Indemnified Party shall reasonably cooperate and assist the Indemnifying Party in determining the validity and amount of such Direct Claim. If the Indemnifying Party does not so respond within such thirty (30) day period, by delivery of written notice disputing the basis or amount of the Direct Claim, the Indemnifying Party is deemed to have rejected such claim, in which case the Indemnified Party is free to pursue such remedies as may be available to the Indemnified Party on the terms and subject to the provisions of this Agreement. If the Indemnifying Party has timely disputed its indemnity obligation for any Losses with respect to such Direct Claim, the Parties shall proceed in good faith

to negotiate a resolution of such dispute and, if not resolved through negotiations, such dispute may resolved by litigation in an appropriate court of jurisdiction determined pursuant to this Agreement.

#### Section 8.05. **Limitations on Indemnification Obligations**

(a) Subject to the other limitations contained in this Section 8.05, neither Buyer nor Buyer Indemnified Persons is entitled to indemnification pursuant to Section 8.02(a) (other than for an intentional breach of any agreement or covenant contained in this Agreement) unless the aggregate amount of Losses incurred by Buyer and Buyer Indemnified Persons under this Agreement exceeds Seven Hundred Fifty Thousand Dollars (\$750,000) in the aggregate (the “Threshold Amount”), in which case Seller shall then be liable for Losses in excess of the Threshold Amount; *provided, however*, that the foregoing limitations contained in this Section 8.05(a) shall not apply to any claims for indemnification based on fraud, intentional misrepresentation or willful misconduct or pursuant to Section 8.02(c).

(b) Subject to the other limitations contained in this Section 8.05 neither Seller nor the Seller Indemnified Persons is entitled to indemnification pursuant to Section 8.03(a) (other than for an intentional breach of any agreement or covenant contained in this Agreement) unless the aggregate amount of Losses incurred by Seller and Seller Indemnified Persons under this Agreement exceeds the Threshold Amount, in which case Buyer shall then be liable for Losses in excess of the Threshold Amount; *provided, however*, that the foregoing limitations contained in this Section 8.05(a) shall not apply to any claims for indemnification based on fraud, intentional misrepresentation or willful misconduct or pursuant to Sections 8.03(c)(d) and (e).

(c) Except in the case of fraud, intentional misrepresentation or willful misconduct (for which all applicable legal and equitable remedies will be available to Buyer), the Buyer Indemnified Parties shall only be entitled to assert claims under Section 8.02(a) (other than claims with respect to breaches of any of the Seller Fundamental Representations, which shall not be limited by this Section 8.05(c)) up to the aggregate amount of 5% of Purchase Price (the “Liability Cap”), which shall represent the sole and exclusive remedy of Buyer and the other Buyer Indemnified Parties for any such claims under Section 8.02(a) (other than claims with respect to breaches of any of the Seller Fundamental Representations, in the case of fraud, intentional misrepresentation or willful misconduct or pursuant to Section 8.02(c) which shall not be subject to the Liability Cap, but is capped at the Purchase Price).

(d) Payments by an Indemnifying Party pursuant to Section 8.02 or Section 8.03 in respect of any Loss is limited to the amount of any liability or damage that remains after deducting therefrom any insurance proceeds actually received and any indemnity, contribution or other similar payment received or reasonably expected to be received by the Indemnified Party in respect of any such claim. The Indemnified Party shall use its commercially reasonable efforts to recover under insurance policies or indemnity, contribution or other similar agreements for any Losses before seeking indemnification under this Agreement.

(e) Payments by an Indemnifying Party pursuant to Section 8.02 or Section 8.03 in respect of any Loss will be reduced by an amount equal to any Tax benefit realized or reasonably expected to be realized as a result of such Loss by the Indemnified Party.

(f) Each Indemnified Party shall take, and cause its Affiliates to take, all reasonable steps to mitigate any Loss upon becoming aware of any event or circumstance that would be reasonably expected to, or does, give rise thereto, including incurring costs only to the minimum extent necessary to remedy the breach that gives rise to such Loss.

(g) Subject to the provisions of Sections 3.01, 7.07, 15.11 and any other provisions for equitable relief and/or specific performance, the Parties acknowledge and agree that their sole and exclusive remedy with respect to any and all claims for any breach of any representation, warranty, covenant, agreement or obligation set forth herein or otherwise relating to the subject matter of this Agreement, shall be pursuant to the indemnification provisions set forth in this Article VIII. In furtherance of the foregoing, each Party waives, to the fullest extent permitted under Law, any and all rights, claims and causes of action for any breach of any representation, warranty, covenant, agreement or obligation set forth herein or otherwise relating to the subject matter of this Agreement it may have against the other Party hereto and their Affiliates and each of their respective representatives arising under or based upon any Law, except pursuant to the indemnification provisions set forth in this Article VIII. Nothing in this Section 8.05(g) limits any Parties' right to seek and obtain any equitable relief and/or specific performance to which any Party is entitled pursuant to this Agreement.

**Section 8.06. Knowledge of Breach**

Neither the Municipality nor the Seller will be liable under this Article VIII for any Losses based upon or arising out of any inaccuracy in or breach of any of the representations or warranties of Seller or the Municipality contained in this Agreement if Buyer had Knowledge of such inaccuracy or breach before the Closing Date.

**ARTICLE IX.**

**PRE-CLOSING COVENANTS OF THE SELLER AND THE MUNICIPALITY**

**Section 9.01. Operation of the System**

Except as otherwise expressly permitted by this Agreement, as required by applicable Law or with the prior written consent of Buyer (which consent shall not be unreasonably withheld, delayed or conditioned), from the Effective Date until the Closing, the Seller shall (i) operate and manage the System only in the ordinary course of business in accordance with past practices and procedures, (ii) comply in all material respects with all applicable Laws and Authorizations and Permits, and (iii) use commercially reasonable efforts to maintain and preserve intact the business and assets of the System and preserve the rights, franchises, goodwill and relationships of the Seller and the System and their customers, lenders, suppliers, regulators and others having business relationships with the Seller and the System including, but not limited to, the land development agreements in existence as of the Effective Date which such agreements shall not be materially amended without notice to and the consent of Buyer, which consent shall not be unreasonably withheld or delayed.

**Section 9.02. Cooperation**

The Seller and the Municipality shall reasonably cooperate with Buyer and its employees, attorneys, accountants and other agents and, generally, act in reasonably good faith to timely carry

out the purposes of this Agreement and the consummation of the transactions contemplated by this Agreement.

**Section 9.03. Supplements and Updates**

The Seller and the Municipality shall promptly deliver to Buyer any supplemental information updating the information set forth in the representations and warranties set forth in Article IV of this Agreement so that such representations and warranties as supplemented by such information will be true and correct as of the Closing Date (or such other date as provided in such representations and warranties) as if then made. At least three (3) Business Days before the Closing Date, the Seller and the Municipality shall advise Buyer of any facts which would constitute a breach of a representation or warranty as of the date made or a default in a covenant contained herein.

**Section 9.04. Governmental Approvals**

Promptly after the execution of this Agreement, or as required by Law, except as provided in Section 7.06 or otherwise expressly provided herein, the Seller and, and when necessary, the Municipality shall file all applications and reports that are required to be filed by Seller with any Governmental Authority as provided on Schedule 4.05 to the Buyer. The Seller and the Municipality shall also promptly provide all information that any Governmental Authority may require in connection with any such application or report. The Seller and, and when necessary, the Municipality shall use commercially reasonable efforts to obtain all required material consents, waivers, authorizations or approvals of any Governmental Authority, or of any other Person in connection with the transactions contemplated by this Agreement. All authorizations of any Governmental Authority necessary to consummate the transactions contemplated by this Agreement shall be in form and content reasonably satisfactory to Buyer, the Seller and the Municipality before Closing and must be final and non-appealable. [If a party to the PaPUC proceeding appeals PaPUC authorization of the transaction, the Buyer, the Seller and the Municipality may agree to proceed to consummate the transaction.]

**ARTICLE X.**

**PRE-CLOSING COVENANTS OF BUYER**

**Section 10.01. Actions Before the Closing Date**

Buyer shall not take any action that will cause it to be in breach of any representation, warranty, covenant or agreement contained in this Agreement or cause it to be unable to perform in any material respect its obligations hereunder, and Buyer shall use commercially reasonable efforts (subject to any conditions set forth in this Agreement) to perform and satisfy all conditions to Closing to be performed or satisfied by Buyer under this Agreement, including action necessary to obtain all consents and approvals of third parties required to be obtained by Buyer to effect the transactions contemplated by this Agreement.

**Section 10.02. Governmental Approvals**

Promptly after the execution of this Agreement, or as required by Law, except as otherwise expressly provided herein, Buyer shall file all applications and reports which are required to be filed by Buyer with any Governmental Authority as provided on Schedule 5.04. Buyer shall also promptly provide all information that any Governmental Authority may reasonably require in connection with any such application or report. Buyer shall use commercially reasonable efforts to obtain all consents, waivers, authorizations or approvals of any Governmental Authority, or of any other Person of any kind in connection with the transactions contemplated by this Agreement.

**Section 10.03. Cooperation**

Buyer shall reasonably cooperate with the Seller, the Municipality and their employees, attorneys, accountants and other agents and, generally, do such other acts and things in good faith as may be reasonable to timely carry out the purposes of this Agreement and the consummation of the transactions contemplated in accordance with the provisions of this Agreement.

**Section 10.04. Supplements and Updates**

Buyer shall promptly deliver to the Seller and the Municipality any supplemental information updating the information set forth in the representations and warranties set forth in Article V of this Agreement so that such representations and warranties as supplemented by such information will be true and correct as of the Closing Date (or such other date as provided in such representations and warranties) as if then made. At least three (3) Business Days before the Closing Date, Buyer shall advise the Seller and the Municipality of any facts which would constitute a breach of a representation or warranty as of the date made or a default in a covenant contained herein.

**ARTICLE XI.**

**CONDITIONS PRECEDENT TO OBLIGATIONS OF THE SELLER AND THE MUNICIPALITY**

The obligation of the Seller and the Municipality to consummate the transactions provided for in this Agreement is subject to the satisfaction, at or before the Closing, of the following conditions, any one or more of which may be waived in writing by the Seller and the Municipality in their sole discretion:

**Section 11.01. Consents and Approvals**

(a) Receipt of all required material, consent, waiver, authorization or approval of any Governmental Authority, or of any other Person and any other approvals necessary to consummate the transactions contemplated by this Agreement set forth in Schedule 5.04, including without limitation all required EPA and PaDEP approvals and all such Authorizations and Permits and Governmental Approvals must be final (and not subject to any appeal and any applicable appeal period having expired); and

**Section 11.02. Representations and Warranties of Buyer**

The representations and warranties made by Buyer in Article V which are (a) not qualified by materiality shall be true and correct in all material respects on and as of the Closing Date (except for representations or warranties that speak of a specific date or time other than the Closing Date which shall be true and correct in all material respects as of such specified date) and (b) qualified by materiality shall be true and correct in all respects on and as of the Closing Date (except for representations or warranties that speak of a specific date or time other than the Closing Date which shall be true and correct in all respects as of such specified date), and the Seller and the Municipality shall have received a certificate to the effect of the foregoing from a duly authorized officer of Buyer dated as of the Closing Date.

**Section 11.03. [PaPUC Approval]**

PaPUC must have issued a Final Order approving the acquisition of the System under terms and conditions that are reasonably acceptable to the Seller, the Municipality and Buyer. If a party to the PaPUC proceeding appeals PaPUC authorization of the transaction, the Buyer, the Municipality and Seller may agree to proceed to consummate the transaction.]

**Section 11.04. No Injunctions**

None of the Seller, the Municipality or Buyer shall be subject to any injunction, preliminary restraining order or other similar decree of a court of competent jurisdiction prohibiting the consummation of the transactions contemplated by this Agreement.

**Section 11.05. Performance of the Obligations of Buyer**

Buyer shall have performed in all material respects all obligations required under this Agreement to be performed by Buyer on or before the Closing Date, and the Seller and the Municipality shall have received a certificate to that effect from Buyer dated the Closing Date.

**Section 11.06. Deliveries by Buyer**

Buyer shall have made delivery to the Seller and the Municipality of the documents and items specified in Section 13.03 herein.

**Section 11.07. No Material Adverse Effect**

There shall not have occurred any event or condition which gives rise to a Material Adverse Effect with respect to the Acquired Assets or the System.

**ARTICLE XII.**

**CONDITIONS PRECEDENT TO OBLIGATIONS OF BUYER**

The obligation of Buyer to consummate the transactions provided for in this Agreement is subject to the satisfaction, at or before the Closing, of the following conditions, any one or more of which may be waived in writing by Buyer in its sole discretion:

**Section 12.01. Consents and Approvals**

(a) Receipt of all required material, non-governmental third party consents and any other approvals necessary or advisable to consummate the transactions contemplated by this Agreement set forth in Schedule 4.05 and all consents, waivers, authorizations and approvals of any Governmental Authority required pursuant to Section 5.04, including without limitation all required EPA and PaDEP approvals/renewals and all such Authorizations and Permits and Governmental Approvals must be final (and not subject to any appeal and any applicable appeal period having expired); and

(b) Approval by the Seller Board for: (i)(A) defeasance and redemption of any outstanding bonds issued by the Seller on the System included in the Outstanding Indebtedness and (B) discharge of any other outstanding debt issued to the Seller and payable to any current lender and (ii) applying any funds related funds held in any construction fund or account under any indenture(s) being held by the Seller or any lender to the Seller on any outstanding debt (it being understood that any debt service funds or debt service reserve funds will be applied to the defeasance, redemption and discharge of outstanding debt).

(c) If Buyer determines that a Consent Order and Agreement (“CO&A”) with the Pa DEP is necessary, Buyer will enter into an acceptable CO&A with the PaDEP so that the CO&A takes effect at the Closing. Buyer shall be responsible for all costs, expenses and efforts related to securing the CO&A with the PaDEP. If Buyer determines a CO&A is necessary, it shall use its best effort to obtain any CO&A. The acceptability of the CO&A shall be made in the reasonable discretion of Buyer.

#### Section 12.02. **Representations and Warranties of Seller**

The representations and warranties made by the Seller and the Municipality in Article IV this Agreement (disregarding all “materiality” and “Material Adverse Effect” or similar qualifications contained therein) shall be true and correct on and as of the Closing Date (except for representations and warranties expressly stated to relate to a specific date, in which case each such representation and warranty shall be true and correct as of such earlier date), with only such exceptions as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, and the Buyer shall have received a certificate to that effect from the Seller dated as of the Closing Date.

#### Section 12.03. **[PaPUC Approval]**

PaPUC must have issued a Final Order approving the acquisition of the System under terms and conditions that are reasonably acceptable to the Seller, the Municipality and Buyer. If a party to the PaPUC proceeding appeals PaPUC authorization of the transaction, the Buyer, the Municipality and Seller may agree to proceed to consummate the transaction.]

#### Section 12.04. **No Injunctions**

None of the Seller, the Municipality or Buyer are subject to any injunction, preliminary restraining order or other similar decree of a court of competent jurisdiction prohibiting the consummation of the transactions contemplated by this Agreement.

#### Section 12.05. **No Material Adverse Effect**

There shall not have occurred any event or condition which gives rise to a Material Adverse Effect with respect to the Acquired Assets or the System.

**Section 12.06. Deliveries by Seller**

Seller and the Municipality shall have made delivery to Buyer of the documents and items specified in Section 13.02 herein.

**Section 12.07. Performance of the Obligations of Seller**

Seller and the Municipality shall have performed in all material respects all obligations required under this Agreement to be performed by Seller and the Municipality on or before the Closing Date, and Buyer shall have received a certificate to that effect from Seller and the Municipality dated the Closing Date.

**ARTICLE XIII.**

**CLOSING**

**Section 13.01. Closing Date**

The Closing shall take place at a place in Pennsylvania that is mutually agreed upon by the Parties, at 10:00 a.m. eastern standard time on the earliest agreed upon date or within twenty (20) Business Days after the date upon which all the conditions precedent to Closing described in this Agreement have been fulfilled or waived and Buyer, the Municipality and the Seller receive the last of the required consents, waivers, authorizations and approvals from the Governmental Authorities, in each case, for the transactions contemplated by this Agreement, or at such other place and time, by such other method, or on such other date, as may be mutually agreed to by the Parties (the "Closing Date"). The Closing will be effective at 12:01 a.m., Municipality of Norristown, PA time, on the Closing Date (the "Closing Effective Time").

**Section 13.02. Deliveries by the Seller and the Municipality**

At the Closing, the Seller, and with respect to items (g) and (h) below, the Municipality, shall have delivered or cause to be delivered to Buyer executed copies of the following agreements, documents and other items:

- (a) A Bill of Sale transferring all of the Acquired Assets comprising personal property, in the form attached hereto as Exhibit A;
- (b) Possession of the Acquired Assets, including without limitation, the Real Property, the Easements and an interest in the Missing Easements;
- (c) A duly executed counterpart to an Assignment and Assumption Agreement with respect to the Assumed Liabilities (the "Assignment and Assumption Agreement"), in the form attached hereto as Exhibit B;

(d) The consents to transfer all of the Assigned Contracts and Authorizations and Permits (including environmental Authorizations and Permits), to the extent required hereunder;

(e) One or more special warranty or other deeds in recordable form reasonably acceptable to Buyer transferring fee simple title of Real Property;

(f) Copies or originals of all Files and Records, materials, documents and records in possession of the Seller relating to the Real Property or the Assigned Contracts;

(g) Certificate of the Seller and the Municipality pursuant to Section 12.02 of this Agreement;

(h) Certificate of the Seller and the Municipality pursuant to Section 12.07 of this Agreement;

(i) Any documents duly executed by Seller required by the Title Company to issue final owner's title policies in accordance with the procedures set forth in Article VI; and

(j) All such other instruments of conveyance or other documents as shall, in the reasonable opinion of Buyer and its counsel, be necessary to transfer to Buyer the Acquired Assets in accordance with this Agreement or to carry out the terms of this Agreement, duly executed and acknowledged by Seller or the Municipality, if necessary, and in a recordable form.

### Section 13.03. **Deliveries by Buyer**

At the Closing, Buyer shall have delivered or caused to be delivered to the Seller and, with respect to items (c)-(f) below, the Municipality, the following agreements, documents and other items:

(a) Payment in full of the Purchase Price;

(b) A duly executed counterpart to the Assignment and Assumption Agreement;

(c) Certificate of Buyer pursuant to Section 11.02 of this Agreement;

(d) Certificate of Buyer pursuant to Section 11.05 of this Agreement;

(e) [Evidence of PaPUC approval as provided in Section 12.03]; and

(f) All such other instruments of assumption as shall, in the reasonable opinion of Seller and its counsel, be necessary for Buyer to assume the Assumed Liabilities in accordance with this Agreement.

## **ARTICLE XIV.**

### **TERMINATION**

#### Section 14.01. **Events of Termination**

This Agreement may, by notice given in the manner hereinafter provided, be terminated and abandoned at any time before completion of the Closing:

- (a) By the consent of all of the Seller, the Municipality and the Buyer;
- (b) By any of the Seller, Municipality or the Buyer if:
  - (i) the Closing shall not have occurred on or before the Outside Date; provided, however, the Buyer shall have the one-time right to extend the Outside Date for up to ninety (90) days if, in the Buyer's sole discretion, any such amount of time up to ninety (90) days is necessary to obtain a required Governmental Approval; or
  - (ii) any Governmental Authority shall have issued an order, decree or ruling or taken any other action, in each case permanently restraining, enjoining or otherwise prohibiting the material transactions contemplated by this Agreement and such order, decree, ruling or other action will have become final and non-appealable; provided, however, that the Party seeking termination pursuant to this clause (b) of this Section 14.01 is not in breach in any material respect of any of its representations, warranties, covenants or agreements contained in this Agreement;
- (c) By the Seller or the Municipality (if neither Seller nor the Municipality is then in material breach of any provision of this Agreement) in the event of a material breach of any covenant or agreement to be performed or complied with by the Buyer pursuant to the terms of this Agreement or of any representation or warranty of the Buyer contained in this Agreement, which breach (i) has continued without cure for a period of sixty (60) days following written notice thereof by the Seller or the Municipality to the Buyer or if such breach cannot be cured and (ii) would result in a condition to Closing set forth in Article XI of this Agreement not being satisfied (which condition has not been waived by the Seller or the Municipality in writing); or
- (d) By the Buyer (if Buyer is not then in material breach of any provision of this Agreement) in the event of a material breach of any covenant or agreement to be performed or complied with by the Seller pursuant to the terms of this Agreement or of any representation or warranty of the Seller contained in this Agreement, which breach (i) has continued without cure for a period of sixty (60) days following written notice thereof by the Buyer to the Seller and the Municipality or if such breach cannot be cured and (ii) would result in a condition to Closing set forth in Article XII of this Agreement not being satisfied (which condition has not been waived by the Buyer in writing).

This Agreement may not be terminated after completion of the Closing.

#### Section 14.02. **Effect of Termination**

If this Agreement is terminated by the Seller, the Municipality or the Buyer pursuant to Section 14.01, written notice thereof will forthwith be given to the other and all further obligations of the Parties under this Agreement will terminate without further action by any Party and without liability or other obligation of any Party to any other Party hereunder; provided, however, that no Party will be released from liability hereunder if this Agreement is terminated and the transactions abandoned because of any willful breach of this Agreement.

**ARTICLE XV.**

**MISCELLANEOUS**

**Section 15.01. Confidentiality**

Except as and to the extent required by applicable Law (including but not limited to the Pennsylvania Right-To-Know Act at 65 Pa § 67.101) or pursuant to an order of a court of competent jurisdiction and as required hereunder to obtain any and all required Governmental Approvals, no Party hereto shall, directly or indirectly, disclose or use (and no Party shall permit its representatives to disclose or use) any Confidential Information with respect to any other Party furnished, or to be furnished, by such other Party hereto or its shareholders, directors, officers, agents, or representatives to the other Party hereto or its employees, directors, officers, agents or representatives in connection herewith at any time or in any manner other than in connection with the completion of the transactions contemplated by this Agreement and related transactions.

**Section 15.02. Public Announcements** Subject to applicable Law or listing rules of an exchange on which Buyer's parent corporation's stock is listed, and except as otherwise set forth herein, the initial public announcement relating to the transactions contemplated herein will be mutually agreed upon and jointly made by the Parties. Subsequent public announcements by one Party are subject to review and approval by the other Parties before issuance, such approval not to be unreasonably withheld, conditioned or delayed.

**Section 15.03. Notices**

The Parties shall make all notices, other communications and approvals required or permitted by this Agreement in writing, stating specifically that they are being given pursuant to this Agreement and shall be addressed as follows:

in the case of the Seller:

Attention:

Norristown Municipal Waste Authority

-

Attention: Executive Director

Fax:

with a copy to:

Norristown Municipal Waste Authority

-

Attention: Solicitor

Fax:

in the case of the Municipality:

Attention:

Municipality of Norristown

-

Attention: Municipal Manager

Fax:

with a copy to:

Municipality of Norristown

-

Attention: Solicitor

Fax:

in the case of the Buyer:

Attention:

-

Attention:

Fax:

or such other persons or addresses as a Party may from time to time designate by notice to the other Party. A notice, other communication or approval is deemed to have been sent and received (i) on the day it is delivered, or if such day is not a Business Day or if the notice is received after ordinary office hours (time of place of receipt), the notice, other communication or approval is deemed to have been sent and received on the next Business Day, or (ii) on the fourth Business Day after mailing if sent by United States registered or certified mail.

#### Section 15.04. **Headings**

The article, section and paragraph headings in this Agreement are for reference purposes only and have no affect the meaning or interpretation of this Agreement.

#### Section 15.05. **Severability**

If any term, provision, covenant or restriction contained in this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions contained in this Agreement remain in full force and effect and in no way be affected, impaired or invalidated.

#### Section 15.06. **Entire Agreement**

This Agreement constitutes the entire agreement between the Parties pertaining to the subject matter hereof and supersedes all prior agreements, negotiations, discussions and understandings, written or oral, between the Parties. There are no representations, warranties, conditions or other agreements, whether direct or collateral, or express or implied, that form part of or affect this Agreement, or that induced any Party to enter into this Agreement or on which reliance is placed by any Party, except as specifically set forth in this Agreement. The Parties acknowledge and agree

that (i) each has substantial business experience and is fully acquainted with the provisions of this Agreement, (ii) the provisions and language of this Agreement have been fully negotiated and (iii) no provision of this Agreement shall be construed in favor of any Party or against any Party because of such provision of this Agreement having been drafted on behalf of one Party rather than the other Party.

Section 15.07. **Amendments; Waivers**

This Agreement may be amended, changed or supplemented only by a written agreement signed by the Parties. Any waiver of, or consent to depart from, the requirements of any provision of this Agreement will be effective only if it is in writing and signed by the Party giving it, and only in the specific instance and for the specific purpose for which it has been given. No failure on the part of any Party to exercise, and no delay in exercising, any right under this Agreement will operate as a waiver of such right. No single or partial exercise of any such right precludes any other or further exercise of such right or the exercise of any other right.

Section 15.08. **Parties in Interest; Third Party Beneficiary**

Except as hereinafter provided, this Agreement is not intended to and shall not be construed to create upon any Person other than the Parties any rights or remedies hereunder.

Section 15.09. **Successors and Assigns**

(a) Except as otherwise set forth in Sections 15.09(b) and (c), no Party to this Agreement may assign any right or delegate any performance under this Agreement without the prior written consent of the other Parties, and any purported assignment or purported delegation without prior written consent is void. Subject to Section 15.09(b), this Agreement inures to the benefit of and binds the successors and permitted assigns of the Parties hereto.

(b) With respect to any assignment or delegation permitted pursuant to Section 15.09(a) or in connection with any proposed sale, lease, liquidation or transfer of all or substantially all of the System or the Acquired Assets by Buyer, Buyer shall cause such assignee or successor to acknowledge and agree in writing for the benefit of Buyer and the Seller, to fully perform and be liable for all of Buyer's obligations set forth in Article VII, which obligations shall continue to be subject to the Seller's rights and remedies hereunder. If any assignment or delegation by Buyer of its rights and obligations under this Agreement to any Person, Buyer is fully liable to the Seller to the extent provided under this Agreement, and such assignment or delegation by Buyer to such Person shall in no event relieve Buyer of its obligations pursuant to this Section 15.09(b).

(c) The limitation on assignment or delegation contained in Section 15.09(a) in no way limit the rights or obligations of the Municipality, as the municipality creating the Seller, under the Municipality Authorities Act. If the Seller is terminated in accordance with the Municipality Authorities Act and other applicable Law following the Closing:

(i) the Municipality shall (x) obtain all property of the Seller and succeed to all of the Seller's rights under this Agreement, and (y) assume and be liable for all of

the Seller's obligations under this Agreement (including with respect to the System), as if the Municipality were originally direct parties hereto;

(ii) the Municipality, or such other Governmental Authority as may be designated by the Municipality (with the consent of Buyer) (the Municipality or such other Governmental Authority, the "Seller Successor"), is appointed to act as agent for and on behalf of the Municipality in connection with, and to facilitate, any and all transactions arising from, in connection with this Agreement;

(iii) a decision, act, consent or instruction of the Seller Successor shall constitute a decision of the Seller and is final, binding and conclusive upon each of the Municipality, and Buyer may rely upon any decision, act, consent or instruction of the Seller Successor as being the decision, act, consent or instruction of the Seller and the Municipality;

(iv) Buyer is irrevocably relieved from any liability to any Person for any acts done by such Person in accordance with such decision, act, consent or instruction of the Seller Successor; and

(v) the Seller or the Seller Successor, as the case may be, are the sole point of contact for purposes of any notices to be given, consents to be obtained or other communications, by Buyer or Buyer's Affiliates pursuant to or in connection with this Agreement or any matters arising out of or relating hereto, and in no event shall Buyer be required or obligated in any way to give notice to, obtain the consent of or otherwise communicate with any Person other than the Seller or the Seller Successor pursuant to or in connection with this Agreement or any matters arising out of or relating hereto.

#### Section 15.10. **Governing Law; Jurisdiction**

The laws of the Commonwealth of Pennsylvania (without giving effect to its conflicts of law principles) govern all matters arising and relating to this Agreement, including torts. The Parties irrevocably agree and consent to the jurisdiction of the United States District Court for the Eastern District of Pennsylvania and the Court of Common Pleas of Montgomery County, Pennsylvania, for the adjudication of any matters arising under or in connection with this Agreement. Any action initiated in court shall be filed and litigated (including all discovery proceedings) exclusively in the United States District Court for the Eastern District of Pennsylvania and the Court of Common Pleas of Montgomery County, Pennsylvania, and each Party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action or proceeding. Service of process, summons, notice or other document by mail to such Party's address set forth herein shall be effective service of process for any suit, action or other proceeding brought in any such court. EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS AGREEMENT OR THE OTHER TRANSACTION DOCUMENTS IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES AND, THEREFORE, EACH SUCH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LEGAL ACTION ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE OTHER TRANSACTION DOCUMENTS OR

THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY. EACH PARTY TO THIS AGREEMENT CERTIFIES AND ACKNOWLEDGES THAT (A) NO REPRESENTATIVE OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT SEEK TO ENFORCE THE FOREGOING WAIVER IN THE EVENT OF A LEGAL ACTION, (B) SUCH PARTY HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, (C) SUCH PARTY MAKES THIS WAIVER VOLUNTARILY, AND (D) SUCH PARTY HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

Section 15.11. **Specific Performance**

The Parties agree that irreparable damage would occur if any provision of this Agreement were not performed in accordance with the terms hereof and that the Parties is entitled to specific performance of the terms hereof, in addition to any other remedy to which they are entitled at law or in equity.

Section 15.12. **Counterparts; Facsimile Execution**

This Agreement may be executed in any number of counterparts which, taken together, shall constitute one and the same agreement. This Agreement will be effective when it has been executed by each Party and delivered to both Parties. To evidence the fact that it has executed this Agreement, a Party may send a copy of its executed counterpart to the other Party by facsimile transmission. Such Party is deemed to have executed and delivered this Agreement on the date it sent such facsimile transmission. In such event, such Party shall forthwith deliver to the other Party an original counterpart of this Agreement executed by such Party.

[THIS SPACE INTENTIONALLY LEFT BLANK;

SIGNATURES NEXT PAGE]

IN WITNESS WHEREOF, the Parties hereto have executed, or caused to be executed by their duly authorized Representatives, this Agreement as of the Effective Date.

NORRISTOWN MUNICIPAL WASTE  
AUTHORITY

[BUYER]

By: \_\_\_\_\_

By: \_\_\_\_\_

Printed: \_\_\_\_\_

Printed: \_\_\_\_\_

Its:

Its:

**ATTEST:**

**ATTEST:**

By: \_\_\_\_\_

By: \_\_\_\_\_

Name:

Name:

Its:

Its:

MUNICIPALITY OF NORRISTOWN,  
MONTGOMERY COUNTY

By: \_\_\_\_\_

Printed: \_\_\_\_\_

Its:

**ATTEST:**

By: \_\_\_\_\_

Name:

Its: